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Presidential Documents

Title 3—

The President

Memorandum of November 26, 1991

Delegation of Authority With Respect to the Report on Persian Gulf War Criminals

Memorandum for the Secretary of State

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to you the reporting function vested in me by section 301(c) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138). This function shall be exercised in consultation with the Secretary of Defense and the Attorney General.

You are authorized and directed to publish this memorandum in the **Federal Register**.

George Bush

THE WHITE HOUSE,
November 26, 1991.

[FR Doc. 91–29800
Filed 12–9–91; 4:38 pm]
Billing code 3195–01–M

Rules and Regulations

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

Animal Drugs, Feeds, and Related Products; Change of Sponsor Name

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor name from Pharmacia Laboratories, Division of Pharmacia, Inc., to Kabi Pharmacia, Inc.

EFFECTIVE DATE: December 11, 1991.

FOR FURTHER INFORMATION CONTACT: Judy M. O'Haro, Center for Veterinary Medicine (HFV–238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8737.

SUPPLEMENTARY INFORMATION: Pharmacia Laboratories, Division of Pharmacia, Inc., Piscataway, NJ 08854, has informed FDA of a change of sponsor name from Pharmacia Laboratories, Division of Pharmacia, Inc., to Kabi Pharmacia, Inc. The agency is amending the regulations in 21 CFR 510.600 (c)(1) and (c)(2) to reflect this change.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 376).

2. Section 510.600 is amended in the table in paragraph (c)(1) by removing the entry for "Pharmacia Laboratories, Division of Pharmacia Inc." and by alphabetically adding a new entry for "Kabi Pharmacia, Inc.," and in the table in paragraph (c)(2) in the entry "000016" by revising the firm name and address to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Kabi Pharmacia, Inc., 800 Centennial Ave., Piscataway, NJ 08854	000016
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
000016	Kabi Pharmacia, Inc., 800 Centennial Ave., Piscataway, NJ 08854
* * * * *	

Dated: December 3, 1991.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation Center for Veterinary Medicine.

[FR Doc. 91–29578 Filed 12–10–91; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 223

[DoD Directive 5210.83]

Department of Defense Unclassified Controlled Nuclear Information (DoD UCNI)

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This part implements Public Law 100–180, section 123, pertaining to the protection and prevention of the unauthorized dissemination of Department of Defense Unclassified Controlled Nuclear Information (DoD UCNI) to distinguish it from a similar Department of Energy program. This part prescribes DoD policy for the identification and control of DoD UCNI and outlines procedures for document handling and marking, dissemination and transmission methods, safeguarding requirements, and criteria for withholding DoD UCNI from public release under the provisions of the Freedom of Information Act. This part also contains a topical guide describing types of information to be considered for control as DoD UCNI.

EFFECTIVE DATE: November 15, 1991.

ADDRESSES: Office of the Deputy Under Secretary of Defense for Counterintelligence and Security Countermeasures, room 3C285, the Pentagon, Washington, DC 20301–3040.

FOR FURTHER INFORMATION CONTACT: Colonel R.E. Pike, 703–697–5568.

SUPPLEMENTARY INFORMATION: On Tuesday, June 25, 1991, the Department of Defense published a proposed rule (page 28845). In response to comments received, the final rule includes specific procedures for the submission of requests for special access to DoD UCNI by persons not authorized routine access. In addition, the final rule emphasizes that it is the policy of the Department of Defense to make government information publicly available to the fullest extent possible by applying the minimum restrictions consistent with the requirements of 10 U.S.C. 128 necessary to protect the health and safety of the public or the common defense and security.

List of Subjects in 32 CFR Part 223

Classified information; Security measures.

Accordingly, title 32, chapter I, subchapter M, is amended to add Part 223 to read as follows:

PART 223—DEPARTMENT OF DEFENSE UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION (DOD UCNI)

Sec.

Authority: 10 U.S.C. 128 and 5 U.S.C. 552(b)(3).

§ 223.1 Purpose.

This part implements 10 U.S.C. 128 by establishing policy, assigning responsibilities, and prescribing procedures for identifying, controlling, and limiting the dissemination of unclassified information on the physical protection of DoD special nuclear material (SNM), equipment, and facilities. That information shall be referred to as "the Department of Defense Unclassified Controlled Nuclear Information (DoD UCNI)," to distinguish it from a similar Department of Energy (DoE) program.

§ 223.2 Applicability and scope.

This part: (a) Applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Unified and Specified Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components").

(b) Implements 10 U.S.C. 128, which is the statutory basis for controlling the DoD UCNI in the Department of Defense. 10 U.S.C. 128 also constitutes the authority for invoking 32 CFR part 286 to prohibit mandatory disclosure of DoD UCNI under the "Freedom of Information Act (FOIA)" in 5 U.S.C. 552.

(c) Supplements the security classification guidance contained in CG–W–5 [1] and CG–SS–1 [2] and DoD Instruction 5210.67 [3] by establishing procedures for identifying, controlling, and limiting the dissemination of unclassified information on the physical protection of DoD SNM.

(d) Applies to all SNM, regardless of form, in reactor cores or to other items under the direct control of the DoD Components.

(e) Applies equally to DoE UCNI under DoD control, except the statute applicable to DoE UCNI (42 U.S.C. 2011 *et seq.*) must be used with the concurrence of the DoE as the basis for invoking FOIA (section 552 of 10 U.S.C.).

§ 223.3 Definitions.

(a) *Atomic Energy Defense Programs.* Activities, equipment, and facilities of the Department of Defense used or engaged in support of the following:

(1) Development, production, testing, sampling, maintenance, repair, modification, assembly, utilization, transportation, or retirement of nuclear weapons or nuclear weapon components.

(2) Production, utilization, or transportation of DoD SNM for military applications.

(3) Safeguarding of activities, equipment, or facilities that support the functions in paragraphs (a) (1) and (2) of this section, including the protection of nuclear weapons, nuclear weapon components, or DoD SNM for military applications at a fixed facility or in transit.

(b) *Authorized Individual.* A person who has been granted routine access to specific DoD UCNI under 10 U.S.C. 128.

(c) *Denying Official.* An individual who denies a request made under 5 U.S.C. 552 for all, or any portion, of a document or material containing DoD UCNI.

(d) *Document or Material.* The physical medium on, or in, which information is recorded, or a product or substance which contains or reveals information, regardless of its physical form or characteristics.

(e) *Information.* Any fact or concept regardless of the physical form or characteristics of the medium on, or in, which it is recorded, contained or revealed.

(f) *Reviewing Official.* An individual who may make a determination that a document or material contains, does not contain, or no longer contains DoD UCNI.

(g) *Safeguards.* An integrated system of physical protection, material accounting, and material control measures designed to deter, prevent, detect, and respond to unauthorized possession, use, or sabotage of DoD SNM, equipment or facilities.

(h) *Special Nuclear Material Facility.* A DoD facility that performs a sensitive function (see paragraph (i) of this section).

(i) *Sensitive Function.* A function in support of atomic energy defense programs whose disruption could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security (see paragraph (a) of this section).

(j) *Special Nuclear Material (SNM).* Plutonium, uranium enriched in the isotope-233 or in the isotope-235, except source material or any material artificially enriched by any of the foregoing.

(k) *Special Nuclear Material Equipment.* Equipment, systems, or components whose failure or destruction would cause an impact on safeguarding DoD SNM resulting in an unacceptable interruption to a national security program or an unacceptable impact on the health and safety of the public.

(l) *Unauthorized Dissemination.* The intentional or negligent transfer, in any manner and by any person, of information contained in a document or material determined by a reviewing official to contain DoD UCNI, and so marked in accordance with the procedures in appendix A to this part, to any person or entity other than an authorized individual or a person granted special access to specific DoD UCNI under 10 U.S.C. 128.

§ 223.4 Policy.

It is DoD policy:

(a) To prohibit the unauthorized dissemination of unclassified information on security measures, including security plans, procedures, and equipment for the physical protection of DoD SNM, equipment, or facilities.

(b) That the decision to protect unclassified information as DoD UCNI shall be based on a determination that the unauthorized dissemination of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by increasing significantly the likelihood of the illegal production of nuclear weapons or the theft, diversion, or sabotage of DoD SNM, equipment, or facilities.

---

[1] Controlled document. Not releasable to the public.

[2] Requests may be forwarded to U.S. Department of Energy (Forrestal Building), 100 Independence Avenue, SW., Attention: Distribution Office of DOE Publications, Washington, DC 20585.

[3] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

(c) That government information shall be made publicly available to the fullest extent possible by applying the minimum restrictions consistent with the requirements of 10 U.S.C. 128 necessary to protect the health and safety of the public or the common defense and security.

(d) That nothing in this part prevents a determination that information previously determined to be DoD UCNI is classified information under applicable standards of classification.

§ 223.5 Responsibilities.

(a) The Assistant Secretary of Defense for Command, Control, Communications, and Intelligence shall:

(1) Administer the DoD program for controlling DoD UCNI.

(2) Coordinate DoD compliance with the DoE program for controlling DoE UCNI.

(3) Prepare and maintain the reports required by 10 U.S.C. 128.

(b) The Assistant Secretary of Defense (Public Affairs) shall provide guidance to the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence (ASD(C3I)), other elements of the OSD, and the Heads of the DoD Components on the FOIA (5 U.S.C. 552), as implemented in DoD 5400.7–R,[4] as it applies to the DoD UCNI Program.

(c) The Heads of the DoD Components shall:

(1) Implement this part in their DoD Components.

(2) Advise the ASD(C3I) of the following, when information not in the guidelines in appendix B to this part is determined to be DoD UCNI:

(i) Identification of the type of information to be controlled as DoD UCNI. It is not necessary to report each document or numbers of documents.

(ii) Justification for identifying the type of information as DoD UCNI, based on the guidelines in appendix B to this part and prudent application of the adverse effects test.

§ 233.6 Procedures.

Appendix A to this part outlines the procedures for controlling DoD UCNI. Appendix B to this part provides general and topical guidelines for identifying information that may qualify for protection as DoD UCNI. The procedures and guidelines in appendices A and B to this part complement the DoD Component Programs to protect other DoD-sensitive unclassified information and may be used with them.

[4] See footnote 3 to section 223.2(c).

§ 223.7 Information requirements.

(a) Section 128 of 10 U.S.C. requires that the Secretary of Defense prepare on a quarterly basis a report to be made available on the request of any interested person. Appendix A to this part outlines the procedures for preparing the quarterly report.

(b) The report is exempt from licensing in accordance with paragraph E.4.e of DoD 7750.5–M.[5]

Appendix A to Part 223—Procedures for Identifying and Controlling DoD UCNI

A. General

1. The Secretary of Defense's authority for prohibiting the unauthorized disclosure and dissemination of DoD UCNI may be exercised by the Heads of the DoD Components and by the officials to whom such authority is specifically delegated by the Heads of the DoD Components. These procedures for identifying and controlling DoD UCNI are provided as guidance for the Heads of the DoD Components to implement the Secretary of Defense's authority to prohibit the unauthorized dissemination of unclassified information on security measures, including security plans, procedures, and equipment, for the physical protection of DoD SNM, equipment, or facilities.

2. The decision to protect unclassified information as DoD UCNI shall be based on a determination that the unauthorized dissemination of such information could reasonably be expected to have an adverse effect on the health and safety of the public or the common defense and security by increasing significantly the likelihood of the illegal production of nuclear weapons or the theft, diversion, or sabotage of DoD SNM, equipment, or facilities.

3. Government information shall be made publicly available to the fullest extent possible by applying the minimum restrictions consistent with the requirements of 10 U.S.C. 128, necessary to protect the health and safety of the public or the common defense and security.

4. DoD personnel, in making a determination to protect unclassified information as DoD UCNI, shall consider the probability of an illegal production, theft, diversion, or sabotage if the information proposed for protection were made available for pubic disclosure and dissemination. The determination to protect specific documents or information is not related to the ability of DoD UCNI to be obtained by other sources. For determining the control of DoD UCNI, the cognizant official should consider how the unauthorized disclosure or dissemination of such information could assist a potential adversary in the following:

a. Selecting a target for an act of theft, diversion, or sabotage of DoD SNM, equipment, or facilities (e.g., relative importance of a facility or the location, form, and quantity of DoD SNM). Information that can be obtained by observation from public areas outside controlled locations should not be considered as DoD UCNI.

b. Planning or committing an act of theft, diversion, or sabotage of DoD SNM, equipment, or facilities (e.g., design of security systems; building plans; methods and procedures for transfer, accountability, and handling of DoD SNM; or security plans, procedures, and capabilities).

c. Measuring the success of an act of theft, diversion, or sabotage of DoD SNM, equipment, or facilities (e.g., actual or hypothetical consequences of the sabotage of specific vital equipment or facilities).

d. Illegally producing a nuclear explosive device (e.g., unclassified nuclear weapon design information useful in designing a primitive nuclear device; location of unique DoD SNM needed to fabricate such a device; or location of a nuclear weapon).

e. Dispersing DoD SNM in the environment (e.g., location, form, and quantity of DoD SNM).

5. DoD UCNI shall be identified, controlled, marked, transmitted, and safeguarded in the DoD Components, the North Atlantic Treaty Organization (NATO), and among DoD contractors, consultants, and grantees authorized to conduct official business for the Department of Defense. Contracts requiring the preparation of unclassified information that could be DoD UCNI shall have the requirements for identifying and controlling the DoD UCNI.

6. DoE GC–2 [1] and DoE Orders 5635.4 [2] and 5650.3 [3] provide background on implementation of the UCNI Program in the DoE. The DoD Components maintaining custody of DoE UCNI should refer to those documents for its identification and control.

B. Identifying DoD UCNI

1. To be considered for protection as DoD UCNI, the information must:

a. Be unclassified.

b. Pertain to security measures, including plans, procedures, and equipment, for the physical protection of DoD SNM, equipment, or facilities.

c. Meet the adverse effects test; i.e., that the unauthorized dissemination of such information could reasonably be expected to have an adverse effect on the health and safety of the public or the common defense and security by increasing significantly the likelihood of the illegal production of nuclear weapons or the theft, diversion, or sabotage of DoD SNM, equipment, or facilities.

2. Information, in the categories in section C. of appendix B to this part, about DOD SNM should be considered for protection as DoD UCNI.

3. Material originated before the effective date of those procedures, which is found in the normal course of business to have DoD UCNI, shall be protected as DoD UCNI. There is no requirement to conduct detailed file searches to retroactively identify and control DoD UCNI. As existing documents or materials are withdrawn from file, they should be reviewed to determine if they meet

[5] See footnote 3 to § 223.2(c).

[1] See footnote 3 to § 223.2(c).

[2] See footnote 3 to § 223.2(c).

[3] See footnote 3 to § 223.2(c).

the criteria for protection as DoD UCNI and marked and controlled, accordingly.

C. Access to DOD UCNI

1. A Reviewing Official is an Authorized Individual for documents or materials that the Reviewing Official determines to contain DoD UCNI. An Authorized Individual, for DoD UCNI, may determine that another person is an Authorized Individual who may be granted routine access to the DoD UCNI, and who may further disseminate the DoD UCNI under the procedures specified in paragraph E., below. This recipient of DoD UCNI from an Authorized Individual is also an Authorized Individual for the specific DoD UCNI to which routine access has been granted. An Authorized Individual designates another person to be an Authorized Individual by the act of giving that person a document or material that contains DoD UCNI. No explicit designation or security clearance is required. This second Authorized Individual may further disseminate the UCNI under the procedures specified in section E. of the appendix.

2. A person granted routine access to DoD UCNI must have a need to know the specific DoD UCNI in the performance of official duties or of DoD-authorized activities. The recipient of the document or material shall be informed of the physical protection and access requirements for DoD UCNI. In addition to a need to know, the person must meet at least one of the following requirements:

a. The person is a U.S. citizen who is one of the following:

(1) A Federal Government employee or member of the U.S. Armed Forces.

(2) An employee of a Federal Government contractor, subcontractor, or of a prospective Federal Government contractor or subcontractor who will use the DoD UCNI for the purpose of bidding on a Federal Government contract or subcontract.

(3) A Federal Government consultant or DoD advisory committee member.

(4) A member of Congress.

(5) A staff member of a congressional committee or of an individual Member of Congress.

(6) The Governor of a State or designated State government official or representative.

(7) A local government official or an Indian tribal government official; or

(8) A member of a State, local, or Indian tribal law enforcement or emergency response organization.

b. The person is other than a U.S citizen, and is one of the following:

(1) A Federal Government employee or a member of the U.S. Armed Forces.

(2) An employee of a Federal Government contractor or subcontractor; or

(3) A Federal Government consultant or DoD advisory committee member.

c. The person may be other than a U.S. citizen who is not otherwise eligible for routine access to DoD UCNI under paragraph C. 2.b of this appendix, but who requires routine access to specific DoD UCNI in conjunction with one of the following:

(1) An international nuclear cooperative activity approved by the Federal Government.

(2) U.S. diplomatic dealings with foreign government officials; or

(3) Provisions of treaties, mutual defense acts, or Government contracts or subcontracts.

3. A person not authorized routine access to DoD UCNI under paragraph C.2. of this appendix, may submit a request for special access to DoD UCNI to Heads of DoD Components, or their designated representative, as appropriate. A special access request must include the following information:

a. The name, current residence or business address, birthplace, birth date, and country of citizenship of the person submitting the request.

b. A description of the DoD UCNI for which special access is being requested.

c. A description of the purpose for which the DoD UCNI is needed; and

d. Certification by the requester of his or her understanding of, and willingness to abide by, the requirements for the protection of DoD UCNI contained in this part.

4. Heads of DoD Components, or their designated representative, shall base his or her decision to grant special access to DoD UCNI on an evaluation of the following criteria:

a. The sensitivity of the DoD UCNI for which special access is being requested (i.e., the worst-case, adverse effect on the health and safety of the public or the common defense and security which would result from unauthorized use of the DoD UCNI).

b. The purpose for which the DoD UCNI is needed (e.g., the DoD UCNI will be used for commercial or other private purposes, or will be used for public benefit to fulfill statutory or regulatory responsibilities).

c. The likelihood of an unauthorized dissemination by the requester of the DoD UCNI; and

d. The likelihood of the requester using the DoD UCNI for illegal purposes.

5. Heads of DoD Components, or their designated representative, shall attempt to notify a person who requests special access to DoD UCNI within 30 days of receipt of the request as to whether or not special access to the requested DoD UCNI is granted. If a final determination on the request cannot be made within 30 days of receipt of the request, Heads of DoD Components, or their designated representative, shall notify the requester, within 30 days of the request, as to when the final determination on the request may be made.

6. A person granted special access to specific UCNI is not an Authorized Individual and shall not further disseminate the DoD UCNI to which special access has been granted.

7. An Authorized Individual granting routine access to specific DoD UCNI to another person shall notify each person granted access (other than when the person being granted such access is a Federal Government employee, a member of the U.S. Armed Forces, or an employee of a Federal Government contractor or subcontractor) of applicable regulations concerning the protection of DoD UCNI and of any special dissemination limitations that the Authorized Individual determines to apply for the specific DoD UCNI to which routine access is being granted.

8. Heads of DoD Components, or their designated representative, shall notify each person granted special access to DoD UCNI of applicable regulations concerning the protection of DoD UCNI prior to dissemination of the DoD UCNI to the person.

9. The requirement to notify persons granted routine access or special access to specific DoD UCNI may be met by attachment of an appropriate cover sheet to the front of each document or material containing DoD UCNI prior to its transmittal to the person granted access.

D. Markings

1. An unclassified document with DoD UCNI shall be marked "DoD Unclassified Controlled Nuclear Information" at the bottom on the outside of the front cover, if any, and on the outside of the back cover, if any.

2. In an unclassified document, an individual page that has DoD UCNI shall be marked to show which of its portions contain DoD UCNI information. In marking sections, parts, paragraphs, or similar portions, the parenthetical term "(DoD UCNI)" shall be used and placed at the beginning of those portions with DoD UCNI.

3. In a classified document, an individual page that has both DoD UCNI and classified information shall be marked at the top and bottom of the page with the highest security classification of information appearing on that page. In marking sections, parts, paragraphs, or similar portions, the parenthetical term "(DoD UCNI)" shall be used and placed at the beginning of those portions with DoD UCNI. In a classified document, an individual page that has DoD UCNI, but no classified information, shall be marked "DoD Unclassified Controlled Information" at the bottom of the page. The DoD UCNI marking may be combined with other markings, if all relevant statutory and regulatory citations are included.

4. Other material (e.g., photographs, films, tapes, or slides) shall be marked "DoD Unclassified Controlled Nuclear Information" to ensure that a recipient or viewer is aware of the status of the information.

E. Dissemination and Transmission

1. DoD UCNI may be disseminated in the DoD Components, the NATO, and among the DoD contractors, consultants, and grantees on a need-to-know basis to conduct official business for the Department of Defense. Recipients shall be made aware of the status of such information, and transmission shall be by means to preclude unauthorized disclosure or dissemination. Contracts that shall require access to DoD UCNI shall require compliance with this part and the DoD Component regulations and have the requirements for the marking, handling, and safeguarding of DoD UCNI.

2. DoD holders of DoD UCNI are authorized to convey such information to officials in other Departments or Agencies on a need-to-know basis to fulfill a Government function. Transmittal documents shall call attention to the presence of DoD UCNI attachments using an appropriate statement in the text, or

marking at the bottom of the transmittal document, that "The attached document contains DoD Unclassified Controlled Nuclear Information (DoD UCNI)." Similarly, documents transmitted shall be marked, as prescribed in section D. of this appendix.

3. DoD UCNI transmitted outside the Department of Defense requires application of an expanded marking to explain the significance of the DoD UCNI marking. That may be accomplished by typing or stamping the following statement on the document before transfer:

DEPARTMENT OF DEFENSE

UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION

EXEMPT FROM MANDATORY DISCLOSURE

(5 U.S.C. 552(b)(3), as authorized by 10 U.S.C. 128)

4. When not commingled with classified information, DoD UCNI may be sent by first-class mail in a single, opaque envelope or wrapping.

5. DoD UCNI may only be discussed or transmitted over an unprotected telephone or telecommunications circuit (to include facsimile transmissions) in an emergency.

6. Each part of electronically transmitted messages with DoD UCNI shall be marked appropriately. Unclassified messages with DoD UCNI shall have the abbreviation "DoD UCNI" before the beginning of the text.

7. DoD UCNI may be processed, stored, or produced on stand-alone personal computers, or shared-logic work processing systems, if protection from unauthorized disclosure or dissemination, in accordance with the procedures in section F. of this appendix, can be ensured.

8. A document marked as having DoD UCNI may be reproduced minimally without permission of the originator and consistent with the need to carry out official business.

F. Safeguarding DoD UCNI

1. During normal working hours, documents determined to have DoD UCNI shall be placed in an out-of-sight location, or otherwise controlled, if the work area is accessible to unescorted personnel.

2. At the close of business, DoD UCNI material shall be stored so to preclude disclosure. Storage of such material with other unclassified documents in unlocked receptacles; i.e., file cabinets, desks, or bookcases, is adequate, when normal Government or Government-contractor internal building security is provided during nonduty hours. When such internal building security is not provided, locked rooms or buildings normally provide adequate after-hours protection. If such protection is not considered adequate, DoD UCNI material shall be stored in locked receptacles; i.e., file cabinets, desks, or bookcases.

3. Nonrecord copies of DoD UCNI materials must be destroyed by tearing each copy into pieces to reasonably preclude reconstruction and placing the pieces in regular trash containers. If the sensitivity or volume of the information justifies it, DoD UCNI material may be destroyed in the same manner as classified material rather than by tearing. Record copies of DoD UCNI documents shall be disposed of, in accordance with the DoD Components' record management regulations. DoD UCNI on magnetic storage media shall be disposed of by overwriting to preclude its reconstruction.

4. The unauthorized disclosure of DoD UCNI material does not consititute disclosure of DoD information that is classified for security purposes. Such disclosure of DoD UCNI justifies investigative and administrative actions to determine cause, assess impact, and fix responsibility. The DoD Component that originated the DoD UCNI information shall be informed of its unauthorized disclosure and the outcome of the investigative and administrative actions.

G. Retirement of Document of Material

1. Any unclassified document or material which is not marked as containing DoD UCNI but which may contain DoD UCNI shall be marked upon retirement in accordance with the DoD Components' record management regulations.

2. A document or material marked as containing DoD UCNI is not required to be reviewed by a Reviewing Official upon or subsequent to retirement. A Reviewing Official shall review any retired document or material upon a request for its release made under 5 U.S.C. 552.

H. Requests for Public Release of DoD UCNI

DoD 5400.7–R applies. Information that qualifies as DoD UCNI, under 10 U.S.C. 128, is exempt from mandatory disclosure under 5 U.S.C. 552. Consequently, requests for the public release of DoD UCNI shall be denied under 5 U.S.C. 552(b)(3), citing 10 U.S.C. 128 as authority.

I. Reports

The Assistant Secretary of Defense for Command, Control, Communications, and Intelligence shall prepare and maintain the quarterly reports required by 10 U.S.C. 128. The Heads of the DoD Components shall advise the ASD(C3I) when information not in the guidelines in appendix B to this part is determined to be DoD UCNI. Those reports shall have the following information:

1. Identification of the information to be controlled as DoD UCNI. It is not necessary to report each document or numbers of documents.

2. Justification for identifying the type of information to be controlled as DoD UCNI.

3. Certification that only the minimal information necessary to protect the health and safety of the public or the common defense and security is being controlled as DoD UCNI.

Appendix B to Part 223—Guidelines for the Determination of DoD UCNI

A. Use of Determination of DoD UCNI Guidelines

1. These guidelines for determining DoD UCNI are the bases for determining what unclassified information about the physcial protection of DoD SNM, equipment or facilities in a given technical or programmatic subject area is DoD UCNI.

2. The decision to protect unclassified information as DoD UCNI shall be based on a determination that the unauthorized dissemination of such information could reasonably be expected to have an adverse effect on the health and safety of the public or the common defense and security by increasing significantly the likelihood of the illegal production of nuclear weapons or the theft, diversion, or sabotage of SNM, equipment, or facilities.

B. General

1. The policy for protecting unclassified information about the physical protection of DoD SNM, equipment, or facilities is to protect the public's interest by controlling certain unclassified Government information so to prevent the adverse effects described in section D. of this appendix and in appendix A to this part, without restricting public availability of information that would not result in those adverse effects.

2. In controlling DoD SNM information, only the minimum restrictions needed to protect the health and safety of the public or the common defense and security shall be applied to prohibit the disclosure and dissemination of DoD UCNI.

3. Any material that has been, or is, widely and irretrievably disseminated into the public domain and whose dissemination was not, or is not, under Government control is exempt from control under these guidelines. However, the fact that information is in the public domain is not a sufficient basis for determining that similar or updated Government-owned and -controlled information in another document or material is not, or is no longer, DoD UCNI; case-by-case determinations are required.

C. Topical Guidance

The following elements of information shall be considered by the DoD Components during the preparation of unclassified information about the physical protection of DoD SNM to determine if it qualifies for control as DoD UCNI:

1. Vulnerability Assessments

a. General vulnerabilities that could be associated with specific DoD SNM, equipment, or facility locations.

b. The fact that DoD SNM facility security-related projects or upgrades are planned or in progress.

c. Identification and description of security system components intended to mitigate the consequences of an accident or act of sabotage at a DoD SNM facility.

2. Material Control and Accountability

a. Total quantity or categories of DoD SNM at a facility.

b. Control and accountability plans or procedures.

c. Receipts that, cumulatively, would reveal quantities and categories of DoD SNM of potential interest to an adversary.

d. Measured discards, decay losses, or losses due to fission and transmutation for a reporting period.

e. Frequency and schedule of DoD SNM inventories.

3. Facility Description

a. Maps, conceptual design, and construction drawings of a DoD SNM facility showing construction characteristics of

building and associated electrical systems, barriers, and back-up power systems not observable from a public area.

b. Maps, plans, photographs, or drawings of man-made or natural features in a DoD SNM facility not observable from a public area; i.e., tunnels, storm or waste sewers, water intake and discharge conduits, or other features having the potential for concealing surreptitious movement.

4. Intrusion Detection and Security Alarm Systems

a. Information on the layout or design of security and alarm systems at a specific DoD SNM facility, if the information is not observable from a public area.

b. The fact that a particular system make or model has been installed at a specific DoD SNM facility, if the information is not observable from a public area.

c. Performance characteristics of installed systems.

5. Keys, Locks, Combinations, and Tamper-Indicating Devices

a. Types and models of keys, locks, and combinations of locks used in DoD SNM facilities and during shipment.

b. Method of application of tamper-indicating devices.

c. Vulnerability information available from unclassified vendor specifications.

6. Threat Response Capability and Procedures

a. Information about arrangements with local, State, and Federal law enforcement Agencies of potential interest to an adversary.

b. Information in "nonhostile" contingency plans of potential value to an adversary to defeat a security measure; i.e., fire, safety, nuclear accident, radiological release, or other administrative plans.

c. Required response time of security forces.

7. Physical Security Evaluations

a. Method of evaluating physical security measures not observable from public areas.

b. Procedures for inspecting and testing communications and security systems.

8. In-Transit Security

a. Fact that a shipment is going to take place.

b. Specific means of protecting shipments.

c. Number and size of packages.

d. Mobile operating and communications procedures that could be exploited by an adversary.

e. Information on mode, routing, protection, communications, and operations that must be shared with law enforcement or other civil agencies, but not visible to the public.

f. Description and specifications of transport vehicle compartments or security systems not visible to the public.

9. Information on Nuclear Weapon Stockpile and Storage Requirement, Nuclear Weapon Destruction and Disablement Systems, and Nuclear Weapons Physical Characteristics

Refer to CG-W-5 for guidance about the physical protection of information on nuclear weapon stockpile and storage requirements, nuclear weapon destruction and disablement systems, and nuclear weapon physical characteristics that may, under certain circumstances, be unclassified. Such information meets the adverse effects test shall be protected as DoD UCNI.

Dated: December 3, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-29280 Filed 12-10-91; 8:45 am]

BILLING CODE 3810-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 206

Disaster Assistance; Subpart I—Public Assistance Insurance Requirements

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim rule with request for comments.

SUMMARY: In response to comments which FEMA received on the previous version of this interim rule published March 21, 1989, Vol. 54, FR page 11639, FEMA is withdrawing the earlier interim rule and is publishing this new interim rule with comments included. The publishing of this interim rule is necessary due to substantial comments received in response to the previous rule. This action provides regulatory guidance on public assistance insurance requirements and invites public comments on the interim rule published today.

DATES: December 11, 1991. Comments from the public are encouraged. Comments must be received by February 10, 1992. They will be accepted until February 10, 1992.

ADDRESSES: Send written comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC, 20472.

FOR FURTHER INFORMATION CONTACT: Karen Forbes, 202-646-3807.

SUPPLEMENTARY INFORMATION: FEMA is issuing an interim rule rather than a final rule because the changes made in response to comments on the previous version of the interim rule published March 21, 1989, are considered too substantive for publication as a final rule.

On March 21, 1989, FEMA published an interim rule and request for comments for 44 CFR parts 206 and 207 Disaster Assistance, which included subpart I.

The earlier interim rule implemented amendments to the Disaster Relief Act of 1974, Public Law 93-288, which were made pursuant to Public Law 100-707, which was enacted on November 23, 1988. Public Law 100-707 changed the title of the Disaster Relief Act of 1974 to the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("The Stafford Act"). The most significant change with regard to insurance requirements is the reduction of Federal disaster assistance in accordance with section 406(d) of the Stafford Act, 42 U.S.C. 5172(d). Federal disaster assistance to restore insurable structures in special flood hazard areas will be reduced by the maximum amount of insurance proceeds which would have been received had the building and contents been fully covered by a standard flood insurance policy available through the National Flood Insurance Program (NFIP). The NFIP is authorized by the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 *et seq.* Federal disaster assistance for losses that could have been covered by a NFIP policy in an identified flood hazard area is therefore more limited than it was before enactment of Public Law 100-707. This provision, which is referred to as "the reduction" in this discussion, became effective on May 22, 1989.

The interim rule also combined what were previously two subparts—General Insurance Requirements and Flood Insurance Requirements—into one subpart. It established a waiver of insurance requirements for insurable structures with disaster damages under $10,000 to conform to the Office of Management and Budget (OMB) policy, as expressed in the Standard Form (SF) 424D, Assurances—Construction Programs, an attachment to the SF 424, Application for Federal Assistance.

A. Review of Comments and Changes

In this discussion, comments received on the interim rule are addressed and explained.

Section 102 of the Flood Disaster Protection Act of 1973, Public Law 93-234, 42 U.S.C., section 4012a, requires that no Federal assistance be provided to any building and its contents which are located in a special flood hazard area unless they are covered by flood insurance. With the reduction of assistance required by section 406(d) of the Stafford Act, except for depreciation and deductibles, Federal disaster assistance is no longer provided for facilities in special flood hazard areas if those facilities could have been covered by a standard flood insurance policy. The provisions of section 406(d) of the Stafford Act thereby complement the

flood insurance purchase requirement of section 102 of the Flood Disaster Protection Act, 42 U.S.C. 4012a.

The provisions of section 406(d) of the Stafford Act dictate that Federal disaster assistance is not available for the insurable portion of any building and its contents, up to the maximum available coverage under the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 *et seq.*, or to the actual value of the building and its contents, whichever is less. Since the insurable portion of the facility and its contents are not eligible for Federal disaster assistance, except for depreciation and any deductible, the Federal investment is extremely limited. The Flood Disaster Protection Act requires flood insurance to protect that Federal investment.

FEMA continues to recognize the need to encourage applicants for Federal disaster assistance to purchase flood insurance which covers more than the Federal investment. Through training courses and state meetings, FEMA will continue to disseminate information on the NFIP to potential grantees and subgrantees, and encourages their participation in the National Flood Insurance Program.

The only exception to the reduction outlined above is contained in section 406(d)(3) of the Stafford Act, 42 U.S.C. 5172(d)(3). This section exempts eligible private nonprofit (PNP) facilities from the reduction in disaster assistance if they are not covered by flood insurance solely because of the failure of the community in which they are located to participate in the NFIP. In that case, Federal assistance may include restorative work and costs which can be covered by flood insurance. However, in such a case, the PNP must meet the prospective requirement to obtain and maintain flood insurance to protect the Federal investment. The PNP's inability to acquire flood insurance would preclude such private nonprofit organizations from receiving assistance under the Stafford Act. However, if the community agreed to join the NFIP within six months after the major disaster declaration date, and the PNP agrees to obtain and maintain flood insurance prospectively, FEMA could retroactively approve the PNP's application for disaster assistance.

One comment urged FEMA to extend this section 406(d)(3) exemption from the reduction of assistance for PNPs to public entities that may be ineligible to participate in the NFIP due to nonparticipation by another unit of government. Since the section 406(d)(3) of the Stafford Act exempts PNP facilities only, FEMA cannot expand the exemption.

FEMA has removed the $10,000 waiver of the Flood Insurance purchase requirements from the assurances attached to the Standard Form 424, Application for Federal Assistance, because of the section 406(d) reduction which is described above. The resulting change is explained in the next section since the basis for the waiver of insurance requirements relates only to section 311 of the Stafford Act.

One comment suggested that the reduction in disaster assistance should not be applied to facilities when the requirement to obtain and maintain insurance is waived. FEMA does not have the authority to waive the reduction given the specific language in the statute. It should be noted that when the reduction is applied there is still a requirement to obtain and maintain flood insurance, as explained in the first paragraph of this section.

One comment proposed that the reduction should be based on something less than full coverage under the standard flood insurance policy. It was recommended that the amount of the reduction:

> * * * be based on standard industry practices for determining the appropriate amount of coverage for a specific facility, based on the prior history of occurrences, and the potential for future damage similar to that for which the flood insurance is sought. In no instance, however, should the maximum amount of reductions in eligible costs, based on flood insurance coverage, exceed the maximum amount of insurance reasonably available through the NFIP.

S. 2803, 100th Cong., 2d Session, contained language which would have limited the amount of the disaster assistance reduction to the amount of flood insurance which was reasonably available, adequate and necessary. However, the Conference Committee Report did not adopt that language of S. 2803. In Public Law 100–707, the terms "reasonable" or "reasonably available" are not used in reference to the reduction. The basis for the amount of the reduction is described in the Act as "if such facility had been covered by flood insurance * * *." This does not allow consideration of anything less than coverage for the damages sustained. Therefore, FEMA will continue to base the amount of the reduction on full coverage available under the standard flood insurance policy from NFIP or the value of the building and its contents, whichever is less.

B. Changes Related to Insurance Requirements for Facilities Damaged by Hazards Other Than Flood

Section 311 of the Stafford Act, 42 U.S.C. 5154, requires that insurance be obtained and maintained for any facility restored with assistance under the Public Assistance program to the extent that it is reasonably available, adequate, and necessary to protect against future damages to that facility. This requirement, which may be referred to as prospective insurance, existed prior to enactment of Public Law 100–707.

This interim rule continues the past practice of establishing an amount below which the requirement of prospective insurance would be waived. Based on a study of insurance required for grants under $5,000 in the past, FEMA has determined that the section 311 purchase of insurance requirement is not cost-effective for Public Assistance projects under $5,000. Furthermore, FEMA received predominantly favorable comments on the $5,000 waiver when it was proposed in an Advance Notice of Proposed Rulemaking published in the **Federal Register** on November 27, 1987.

One comment opposed any requirement to purchase and maintain insurance to protect against future damages on the entire facility, instead of only the portion of the facility that was damaged. Prior to the interim rule, FEMA required insurance in amounts equal to the Federal share of the project cost. The interim rule increased it to the entire amount of the Damage Survey Report (DSR), (the estimate of eligible project costs). FEMA did not and does not intend to increase the requirement to the full insurable value of the Federally assisted structure. The amount of insurance required will be limited to the eligible damage that was incurred by the damaged facility as a result of the major disaster.

The impact of section 406(d) of the Stafford Act on the flood insurance purchase mandate of section 102 of the Flood Disaster Protection Act of 1973 is described above. Buildings which are located outside of special flood hazard areas and which are damaged by flooding, as well as facilities damaged by hazards other than flood, are not affected by section 406(d) of the Stafford Act. Such buildings will be required to be insured to the extent that insurance is reasonably available, adequate, and necessary to protect against future damages.

One comment indicated that it does not seem reasonable to require maximum flood insurance coverage on

flood damaged buildings outside designated special flood hazard areas. As discussed above, prospective insurance required by FEMA will be limited to the eligible damage that was incurred by the damaged facility as a result of the major disaster. It is also important to keep in mind that the insurance must be reasonably available, adequate and necessary.

44 CFR 206.253(d), discusses hazard mitigation which may reduce the risk of future damages by a disaster similar to the one which resulted in the major disaster declaration. FEMA encourages the use of cost effective hazard mitigation techniques which will mitigate future damages.

One comment stated that the paragraph of the regulation which describes the relationship of hazard mitigation to insurance requirements was too ambiguous. That paragraph has been deleted. Because hazard mitigation measures should remove the risk of future damages, an option to increase the amount of the insurance waiver was added to 44 CFR 206.253(d). The Regional Director may determine that a full or partial waiver of prospective insurance is reasonable for one or more facilities based on quantifiable hazard reduction measures.

C. Changes in Response to Other Comments

There were five comments which urged FEMA to recognize insurance pools and self-insurance programs by local governments. In accordance with section 311(c) of the Stafford Act, 42 U.S.C. 5155(c), and the Flood Disaster Protection Act of 1973, Public Law 93-234, only a State may act as a self-insurer. Therefore, FEMA cannot recognize the self-insurance plans of local governments or private non profit organizations. Due to the high cost of insurance some applicants may request to include the damaged facilities under a blanket policy covering all their facilities, an insurance pool arrangement, or some combination of these options. Because of deductibles, such an arrangement may not fully cover the damaged facility in all future cases. However, it may be the most efficient arrangement when considered from a risk management viewpoint. Such arrangement may be accepted for other than flood damages, but if the same facility is damaged in a similar future disaster, eligible costs will be reduced by the amount of eligible damage sustained in the previous disaster since that amount should have been covered by insurance. An accommodation for insurance pool arrangements has been added to 44 CFR 206.253 subject to the condition that Federal disaster assistance would be reduced by the amount of eligible damages if the building is damaged in a future major disaster.

Comments received indicated a need to rewrite the rule so that it could be more easily understood. Consequently, this interim rule has been redrafted and restructured for purposes of simplification and clarity.

Information Collection Requirements

This rule does not contain information collection requirements.

Environmental Considerations

An environmental assessment has been prepared, leading to the determination that this rule will not have a significant impact on the environment and that an Environmental Impact Statement is not required. The assessment is available for review at the Office of the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC, 20472.

Regulatory Flexibility

FEMA has determined that this rule is not a major rule under Executive Order 12291, and will not have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. Hence, no regulatory impact analyses have been prepared.

Federalism Assessment

The previous Federalism Assessment, prepared on January 12, 1989, addressed this regulation.

List of Subjects in 44 CFR Part 206

Disaster Assistance, Fire Prevention, Insurance.

For the reasons set out in the preamble, title 44, chapter I, subchapter D of the Code of Federal Regulations, is amended as follows:

1. The authority citation for part 206 continues to read as follows:

Authority: The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 93-288, as amended; 42 U.S.C. 5121 *et seq.*; Reorganization Plan No. 3 of 1978; Executive Order 12148, as amended.

2. Subpart I, which currently consists of §§ 206.250–206.339, is revised to read as follows:

Subpart I—Public Assistance Insurance Requirements

Sec.

Subpart I—Public Assistance Insurance Requirements

§ 206.250 General.

(a) Sections 311 and 406(d) of the Stafford Act, and the Flood Disaster Protection Act of 1973, Public Law 93-234, set forth certain insurance requirements which apply to disaster assistance provided by FEMA. The requirements of this subpart apply to all assistance provided pursuant to section 406 of the Stafford Act with respect to any major disaster declared by the President after November 23, 1988.

(b) Insurance requirements prescribed in this subpart shall apply equally to private nonprofit (PNP) facilities which receive assistance under section 406 of the Act. PNP organizations shall submit the necessary documentation and assurances required by this subpart to the Grantee.

(c) Actual and anticipated insurance recoveries shall be deducted from otherwise eligible costs, in accordance with this subpart.

(d) The full coverage available under the standard flood insurance policy from the National Flood Insurance Program (NFIP) will be subtracted from otherwise eligible costs for a building and its contents within the special flood hazard area in accordance with § 206.252.

(e) The insurance requirements of this subpart should not be interpreted as a substitute for various hazard mitigation techniques which may be available to reduce the incidence and severity of future damage.

§ 206.251 Definitions.

(a) *Assistance* means any form of a Federal grant under section 406 of the Stafford Act to replace, restore, repair, reconstruct, or construct any facility and/or its contents as a result of a major disaster.

(b) *Building* means a walled and roofed structure, other than a gas, or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation.

(c) *Community* means any State or political subdivision thereof, or any Indian tribe or authorized tribal organization, or Alaskan Native Village or authorized native organization which has authority to adopt and enforce

floodplain management regulations for the areas within its jurisdiction.

(d) *National Flood Insurance Program* (NFIP) means the program authorized by the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 *et seq.*

(e) *Special flood hazard area* means an area having special flood, mudslide, and/or flood-related erosion hazards, and shown on a Flood Hazard Boundary map (FHBM) or the Flood Insurance Rate Map (FIRM) issued by FEMA as Zone A, AO, A1–30, AE, A99, AH, VO, V1–30 VE, V, M, or E. "Special flood hazard area" is synonymous with "special hazard area", as defined in 44 CFR part 59.

(f) *Standard Flood Insurance Policy* means the flood insurance policy issued by the Federal Insurance Administrator, or by a Write-Your-Own Company pursuant to 44 CFR 62.23.

§ 206.252 Insurance requirements for facilities damaged by flood.

(a) Where an insurable building damaged by flooding is located in a special flood hazard area identified for more than one year by the Director, assistance pursuant to section 406 of the Stafford Act shall be reduced. The amount of the reduction shall be the maximum amount of the insurance proceeds which would have been received had the building and its contents been fully covered by a standard flood insurance policy.

(b) The reduction stated above shall not apply to a PNP facility which could not be insured because it was located in a community not participating in the NFIP. However, the provisions of the Flood Disaster Protection Act of 1973 prohibit approval of assistance for the PNP unless the community agrees to participate in the NFIP within six months after the major disaster declaration date, and the required flood insurance is purchased.

(c) Prior to approval of a Federal grant for the restoration of a facility and its contents which were damaged by a flood, the Grantee shall notify the Regional Director of any entitlement to an insurance settlement or recovery. The Regional Director shall reduce the eligible costs by the amount of insurance proceeds which the grantee receives.

(d) The grantee or subgrantee is required to obtain and maintain flood insurance in the amount of eligible disaster assistance, as a condition of receiving Federal assistance that may be available. This requirement also applies to insurable flood damaged facilities located outside a special flood hazard area when it is reasonably available, adequate, and necessary. However, the Regional Director shall not require greater types and amounts of insurance than are certified as reasonable by the State Insurance Commissioner. The requirement to purchase flood insurance is waived when eligible costs for an insurable facility do not exceed $5,000.

§ 206.253 Insurance requirements for facilities damaged by disasters other than flood.

(a) Prior to approval of a Federal grant for the restoration of a facility and its contents which were damaged by a disaster other than flood, the Grantee shall notify the Regional Director of any entitlement to insurance settlement or recovery for such facility and its contents. The Regional Director shall reduce the eligible costs by the actual amount of insurance proceeds relating to the eligible costs.

(b)(1) Assistance under section 406 of the Stafford Act will be approved only on the condition that the grantee obtain and maintain such types and amounts of insurance as are reasonable and necessary to protect against future loss to such property from the types of hazard which caused the major disaster. The extent of insurance to be required will be based on the eligible damage that was incurred to the damaged facility as a result of the major disaster. The Regional Director shall not require greater types and extent of insurance than are certified as reasonable by the State Insurance Commissioner.

(2) Due to the high cost of insurance, some applicants may request to insure the damaged facilities under a blanket insurance policy covering all their facilities, an insurance pool arrangement, or some combination of these options. Such an arrangement may be accepted for other than flood damages. However, if the same facility is damaged in a similar future disaster, eligible costs will be reduced by the amount of eligible damage sustained on the previous disaster.

(c) The Regional Director shall notify the Grantee of the type and amount of insurance required. The grantee may request that the State Insurance Commissioner review the type and extent of insurance required to protect against future loss to a disaster-damaged facility, the Regional Director shall not require greater types and extent of insurance than are certified as reasonable by the State Insurance Commissioner.

(d) The requirements of section 311 of the Stafford Act are waived when eligible costs for an insurable facility do not exceed $5,000. The Regional Director may establish a higher waiver amount based on hazard mitigation initiatives which reduce the risk of future damages by a disaster similar to the one which resulted in the major disaster declaration which is the basis for the application for disaster assistance.

(e) The Grantee shall provide assurances that the required insurance coverage will be maintained for the anticipated life of the restorative work or the insured facility, whichever is the lesser.

(f) No assistance shall be provided under section 406 of the Stafford Act for any facility for which assistance was provided as a result of a previous major disaster unless all insurance required by FEMA as a condition of the previous assistance has been obtained and maintained.

§§ 206.254–206.339 [Reserved]

Dated: October 28, 1991.

Grant C. Peterson,

Associate Director, State and Local Programs and Support.

[FR Doc. 91–29464 Filed 12–10–91; 8:45 am]

BILLING CODE 6718-02-M

Proposed Rules

Federal Register
Vol. 56, No. 238
Wednesday, December 11, 1991

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 54

[No. LS-91-009]

Changes in Fees for Federal Meat Grading and Certification Services

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes revising the hourly fee rates for voluntary Federal meat grading and certification services. The hourly fees would be adjusted by this proposed revision to reflect the increased cost of providing service. The proposed revision in the hourly fee is necessary to ensure that the Federal meat grading and certification program is operated on a financially self-supporting basis.

DATES: Comments must be received on or before January 10, 1992.

ADDRESSES: Written comments may be mailed to J. Dean Lowell, Chief, Meat Grading and Certification Branch, Livestock and Seed Division, AMS, USDA, room 2638-S, P.O. Box 96456, Washington, DC 20090-6456. (For further information regarding comments, see "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: J. Dean Lowell, 202/720-1246.

SUPPLEMENTARY INFORMATION:

Regulatory Impact Analysis

This action was reviewed under the USDA procedures established to implement Executive Order 12291 and was classified as a nonmajor proposed rule pursuant to section 1(b) (1), (2), and (3) of that Order. Accordingly, a regulatory impact analysis is not required. This action was also reviewed under the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*)

The Administrator of the Agricultural Marketing Service has determined that this rule will not have a significant economic impact on a substantial number of small entities. The changes in the hourly fee rates are necessary to recover the costs of providing voluntary Federal meat grading and certification services. Continuing industry consolidation and the associated increases in efficiency has allowed the industry to use meat grading and certification services in a more efficient manner. This has resulted in fewer meat graders performing meat grading and certification services on larger volumes of product. Consequently, the unit cost of meat grading and certification services to the industry has been reduced from $.0015 to approximately $0.0011 per pound.

Comments

Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent in duplicate to the Washington, DC, Meat Grading and Certification Branch and should bear a reference to the date and page number of this issue of the **Federal Register**. Comments submitted in reference to this document will be made available for public inspection during regular business hours.

Background

The Secretary of Agriculture is authorized by the Agricultural Marketing Act (AMA) of 1946, as amended, 7 U.S.C. 1621 *et seq.*, to provide voluntary Federal meat grading and certification services to facilitate the orderly marketing of meat and meat products and to enable consumers to obtain the quality of meat they desire. The AMA also provides for the collection of fees from users of Federal meat grading and certification services that are approximately equal to the costs of providing these services. The hourly fees for service are established by equitably distributing the projected annual program operating costs over the estimated hours of service—revenue hours—provided to users of the service. Program operating costs include salaries and fringe benefits of meat graders, supervision, travel, training, and all administrative costs of operating the program. Employee salaries and benefits account for approximately 80 percent of the total budget. Revenue hours include base hours, premium hours, and service performed on Federal legal holidays. As program operating costs change, the hourly fees must be adjusted to enable the program to remain financially self-supporting as required by law. The program last changed the hourly fee rate structure in May of 1990. In fiscal year 1991, the program was faced with a congressionally mandated 4.1 percent pay cost increase for Federal employees effective January 14, 1991, a congressionally mandated 8.0 percent locality pay cost increase in Los Angeles and San Francisco, California, and New York, New York, and nonsalary inflationary cost of 4.0 percent. These cost increases were $677,000. The program will continue to incur these expenses in fiscal year 1992 and beyond. In fiscal year 1992 the program anticipates a congressionally mandated salary increase for Federal employees of 4.2 percent effective January 12, 1992, a projected nonsalary inflation of 4.0 percent, and the program expects an administratively determined, one time intermittent personnel benefit cost of approximately $270,000. Totaled, these cost increases are expected to be $859,000.

The combined cost increases for fiscal years 1991 and 1992 (actual and anticipated) will result in the program incurring an ongoing cumulative operating deficit in excess of $1.5 million. Such costs are more than the program can absorb and remain viable. In addition to the increased operating expenses in fiscal year 1991, the program experienced a decline in revenue resulting from the continuing industry consolidation and the accompanying increase in efficiency. As the nationwide industry's ability to utilize grading and certification services increasingly becomes more efficient, less Federal meat graders are needed. To adjust to the industry's reduced need for grader positions, the program in fiscal year 1991 held in abeyance all hiring of new graders and reduced supervisory positions to levels established by program policy for appropriate grader/supervisory ratios. In fiscal year 1992, the program anticipates a continuation of this broad-based industry trend and a corresponding reduction in revenue. The program has devised a long-term strategic plan to effectively deal with the changing service needs of the industry. Beginning October 1, 1991, the

program initiated a reorganization of its field structure. The reorganization closed one regional office—effective October 1, 1991—and will result in subsequent restructuring of field operations over the next 3 years. In total, the restructuring and other streamlining efforts when fully implemented will save an estimated $700,000 in fiscal year 1992. This cost saving will directly offset the projected reduction in revenue during the corresponding time frames.

Uncontrollable costs thrust upon the program by such factors as governmentwide salary increases, inflation, and changes in individual employee entitlements will continue to create substantial operating deficits. The operating deficits generated by costs outside the control of the program can only be liquidated or prevented by adjusting the hourly fee-rate charged to users of the service. Any further reduction in personnel, services, or supervisory infrastructure beyond those already planned would have a detrimental effect on the programs ability to offer uniform nationwide meat grading and certification services.

In view of the foregoing considerations, the Agency proposes to increase the base hourly rate for commitment applicants for voluntary Federal meat grading and certification services from $30.80 to $34.00. A commitment applicant is a user of the service who agrees, by commitment or agreement memorandum, to the use of a meat grader for 8 consecutive hours per day, Monday through Friday, between the hours of 6 a.m. and 6 p.m., excluding legal holidays. The base hourly rate for noncommitment applicants for voluntary Federal meat grading and certification services would increase from $33.20 to $36.40 and would be charged to applicants who utilize a meat grader for 8 consecutive hours or less per day, Monday through Friday, between the hours of 6 a.m. and 6 p.m., excluding legal holidays. The premium hourly rate for all applicants would be increased from $36.40 to $42.00 and would be charged to users of the service for the hours when a meat grader is utilized in excess of 8 hours per day, between the hours of 6 a.m. and 6 p.m., and for hours worked from 6 p.m. to 6 a.m., Monday through Friday, and for any time worked on Saturday and Sunday, except on legal holidays. The holiday rate for all applicants would be increased from $61.60 to $68.00 and would be charged to users of the service for all hours worked on legal holidays.

List of Subjects in 7 CFR Part 54

Food grades and standards, Food labeling, meat and meat products, grading and certification, beef, veal, lamb, and pork.

Accordingly, 7 CFR part 54 is proposed to be amended to read as follows:

PART 54—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

1. The authority citation for part 54 continues to read as follows:

Authority: Agricultural Marketing Act of 1946, secs. 203, 205, as amended; 60 Stat. 1087, 1090, as amended (7 U.S.C. 1622, 1624).

2. 7 CFR part 54 is amended to read as follows:

§ 54.27 [Amended]

(a) Section 54.27(a), sentence 3, change the following: $33.20 to $36.40; $38.80 to $42.00; and $61.60 to $68.00.

(b) Section 54.27(b), sentence 2, change the following: $30.80 to $34.00; $38.80 to $42.00; and $61.60 to $68.00.

* * * * *

Done at Washington, DC, on: December 4, 1991.

Daniel Haley,

Administrator.

[FR Doc. 91-29389 Filed 12-10-91; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

7 CFR Part 318

[Docket No. 91-154]

Sharwil Avocados From Hawaii

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend "Subpart—Hawaiian Fruits and Vegetables" quarantine and regulations by adding specific guidelines describing how the Animal and Plant Health Inspection Service (APHIS) would allocate the services of APHIS inspectors requested by persons wishing to obtain certificates to ship Sharwil avocados from Hawaii to other parts of the United States. This action is necessary because the number of requests for inspection services sometimes exceeds the program resources available.

DATES: Consideration will be given only to comments received on or before February 10, 1992.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville,MD 20782. Please state that your comments refer to Docket Number 91-154. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Griffin, Operations Officer, Port Operations, PPQ, APHIS, USDA, room 631, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8645.

SUPPLEMENTARY INFORMATION:

Background

The Hawaiian Fruits and Vegetables regulations (contained in 7 CFR 318.13 through 318.13-16 and referred to below as the regulations), among other things, govern the interstate movement from Hawaii of avocados in a raw or unprocessed state. Regulation is necessary to prevent spread of the Mediterranean fruit fly (*Ceratitis capitata* (Wied.)), the melon fly (*Dacus cucurbitae* (Coq.)), and the Oriental fruit fly (*Bactrocera dorsalis* (Hendel) (Syn. *Dacus dorsalis*). These types of fruit flies are collectively referred to as Trifly.

Sections 318.13-4(c) and 318.13-4h of the regulations provide that the Animal and Plant Health Inspection Service (APHIS) will issue certificates allowing Sharwil avocados to be moved from Hawaii to other parts of the United States if the Sharwil avocados are harvested and handled in accordance with requirements specified in the regulations. These harvesting and handling requirements are designed to ensure that the avocados do not contain Trifly or Trifly larvae.

One of the regulations' requirements for obtaining a certificate to move Sharwil avocados is that activities relating to the harvesting and handling of the avocados will be subject to monitoring by APHIS inspectors, and that these activities will be conducted only during times approved by APHIS, based on a determination concerning whether inspectors are available to conduct the necessary monitoring (see § 318.13-4h(f)).

In the final rule establishing the requirements for interstate movement of Sharwil avocados (55 FR 38975-38980, Docket No. 89-121, published in the

Federal Register on September 24, 1990), we discussed the possibility that limited program resources could keep some persons interested in moving Sharwil avocados from obtaining the certificates necessary to move them:

> Our position is that APHIS Sharwil avocado inspecting and monitoring activities will be implemented at levels sufficient to ensure compliance with the regulations. Sharwil avocados will not be certified unless program resources for monitoring and inspection are available at adequate levels to ensure compliance with the regulations. (55 FR 38977)

In enforcing the regulations, we have encountered more interest in shipping Sharwil avocados than was anticipated, and we have had to limit monitoring and inspection services based on the availability of inspectors. While the current regulations explicitly allow us to provide these services only when we determine inspectors are available, the regulations provide no information on exactly how APHIS will allocate inspector resources when we are faced with multiple requests that exceed available inspectors.

We believe that to be fair to applicants for certificates to move Sharwil avocados, and to enable them to effectively plan their harvesting and handling activities, the regulations should be amended to include specific actions that applicants should take to request inspection and inspection services, and the specific standards that APHIS will use in allocating limited inspection services. Therefore, we are proposing to add the following language to § § 318.13–4h(f)(2) and 318.13–4h(g):

> Persons desiring to harvest Sharwil avocadoes and transport them to a packing facility in accordance with this section shall give the Officer-in-Charge written notice of the date on which they wish to conduct such activities, at least 24 hours prior to that date. Persons desiring to pack and ship Sharwil avocados in accordance with this section shall give the Officer-in-Charge written notice of the date on which they wish to conduct such activities, at least 48 hours prior to that date. If the Officer-in-Charge determines that inspection services are not available on the date requested, he or she shall notify the person who requested inspection services, and shall offer to provide inspection services on the next nearest date on which inspection services are available. If more than one person requests inspection services on the same date and sufficient inspectors are not available to meet all requests for that date, requests shall be approved by the Officer-in-Charge in the order in which they are received, and persons whose requests are disapproved shall be offered inspection services on the next nearest date on which inspectors are available. (§ 318.13–4h(f)(2))
>
> The Animal and Plant Health Inspection Service Officer-in-Charge may limit the number of compliance agreements signed to conduct activities in accordance with this section, based on the availability of inspection services to conduct the necessary monitoring of such activities. If it becomes necessary to limit the number of compliance agreements, those requests for compliance agreements that meet the requirements of this section will be signed in the order in which they are received, up to that limit. Requests in excess of that limit will be placed on a waiting list, and will be offered compliance agreements in the order in which they applied, when sufficient inspectors become available. (§ 318.13–4h(g))

We propose to require requests for inspection services for harvest activities at least 24 hours in advance because these inspections must be worked into the field activities of PPQ inspectors, and these activities are normally scheduled the day before they occur. We propose to require requests for packing and shipping activities at least 48 hours in advance because these activities often take place in the evening or outside normal work hours, and require more time to schedule and to allow us to follow union rules for selecting PPQ employees for overtime work. The availability of inspectors to perform these tasks will be decided based on the current work priorities assigned to the PPQ offices in Hawaii by the Administrator. At the current time, the only recurring duties for inspectors that would take priority over inspections of Sharwil harvest, packing, and shipping activities are inspections of ships, other vessels, and aircraft for Agricultural Quarantine Inspection purposes.

We believe that these proposed changes would provide an equitable framework for APHIS and Sharwil avocado growers, packers, and shippers to plan future activities with respect to the regulations concerning interstate movement of Sharwil avocados from Hawaii.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule, if adopted, would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed amendment, if adopted, would require persons desiring certificates to move Sharwil avocados interstate to request inspection services in writing at least 24 hours prior to harvest and at least 48 hours prior to packing.

The Hawaiian Sharwil avocado industry is small. Approximately 20 persons currently have expressed interest in obtaining certificates to move Sharwil avocados interstate. Production is currently limited to about 100 bearing acres, yielding approximately 80 tons of Hawaiian Sharwil avocados. In contrast, the total annual United States avocado production is approximately 273,000 tons. Interstate shipments of Hawaiian Sharwil avocados account for less than one tenth of one percent of the total annual United States avocado production.

Most of the persons growing Sharwil avocados are small business entities. The proposed changes are expected to have a beneficial impact on the Hawaiian Sharwil industry, by providing an equitable framework for scheduling inspections that allows growers and packers to plan their operations with more assurance. The proposed changes are not expected to have significant economic impacts on any element of the economy other than the Hawaiian Sharwil industry. The approximately 20 Sharwil producers in Hawaii who are small entities are not considered a substantial number of small entities, compared to approximately 200Hawaiian small entities producing all varieties of avocados and thousands of small entities in Hawaii in other agricultural production operations.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR, part 3015, subpart V.)

Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the information collection provisions that are included in this proposed rule will be submitted for approval to the Office of Managementand Budget (OMB). Your written comments will be considered if you submit them to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. You should submit a duplicate copy of your comments to: 1) Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782 and 2) Clearance Officer, OIRM, USDA, room 404-W, 14th Street and Independence Avenue, SW., Washington, DC 20250.

List of Subjects in 7 CFR Part 318

Agricultural commodities, Avocados, Guam, Hawaii, Plant diseases, Plant pests, Plants (Agriculture), Puerto Rico, Quarantine, Transportation, Virgin Islands.

Accordingly, we propose to amend 7 CFR part 318 as follows:

PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

1. The authority citation for part 318 would continue to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151-167; 7 CFR 2.17, 2.51, and 371.2(c).

2. Section 318.13–4h, ", and" at the end of paragraph (f)(2) would be removed and a period added in its place, and the following text would be added to the end of paragraphs (f)(2) and (g):

§ 318.13-4h Administrative instructions specifying conditions for certification of Sharwil avocados based on certain harvesting and handling provisions.

* * * * *

(f) * * *

(2) * * * Persons desiring to harvest Sharwil avocadoes and transport them to a packing facility in accordance with this section shall give the Officer-in-Charge written notice of the date on which they wish to conduct such activities, at least 24 hours prior to that date. Persons desiring to pack and ship Sharwil avocados in accordance with this section shall give the Officer-in-Charge written notice of the date on which they wish to conduct such activities, at least 48 hours prior to that date. If the Officer-in-Charge determines that inspection services are not available on the date requested, he or she shall notify the person who requested inspection services, and shall offer to provide inspection services on the next nearest date on which inspection services are available. If more than one person requests inspection services on the same date and sufficient inspectors are not available to meet all requests for that date, requests shall be approved by the Officer-in-Charge in the order in which they are received, and persons whose requests are disapproved shall be notified and offered inspection services on the next nearest date on which inspectors are available, and

* * * * *

(g) * * * The Animal and Plant Health Inspection Service Officer-in-Charge may limit the number of compliance agreements signed to conduct activities in accordance with this section, based on the availability of inspection services to conduct the necessary monitoring of such activities. If it becomes necessary to limit the number of compliance agreements, those requests for compliance agreements that meet the requirements of this section will be signed in the order in which they are received, up to that limit. Requests in excess of that limit will be placed on a waiting list, and will be offered compliance agreements in the order in which they applied, when sufficient inspectors become available.

* * * * *

Done in Washington, DC, this 5th day of December, 1991.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91–29500 Filed 12–10–91; 8:45 am]

BILLING CODE 3410-34-F

Agricultural Marketing Service

7 CFR Part 918

[Docket No. FV-91-444 FR]

Expenses and Assessment Rate for Marketing Order Covering Fresh Peaches Grown in Georgia

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish an assessment rate under Marketing Order 918 for the 1992–93 fiscal period which begins March 1, 1992. This action is needed for the Georgia Peach Industry Committee (committee) to incur operating expenses during the 1992–93 fiscal period and to collect funds during that period to pay those expenses. This action would facilitate program operations. Funds to administer this program are derived from assessments on handlers.

DATES: Comments must be received by January 10, 1992.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC, 20090–6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register.** Comments timely received will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: George Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC, 20090–6465; telephone (202) 690–3919.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Agreement and Marketing Order No. 918 (7 CFR part 918) regulating the handling of fresh peaches grown in Georgia. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This proposed rule has been reviewed by the U.S. Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291, and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 20 handlers of Georgia peaches regulated under this marketing order each season and approximately 150 peach producers in Georgia. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.2) as those

whose annual receipts are less than $3,500,000 and small agricultural producers have majority of the handlers and producers of Georgia peaches may be classified as small entities.

The Georgia peach marketing order, administered by the Department, requires that the assessment rate for a particular fiscal year shall apply to all assessable fresh peaches handled from the beginning of such year within the production area. An annual budget of expenses is prepared by the committee and submitted to the Department for approval. The members of the committee are producers of Georgia peaches. They are familar with the committee's needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed at a public meeting. Thus, all directly affected persons had an opportunity to participate and provide input.

The assessment rate recommended by the committee is derived by dividing anticipated expenses by the number of bushels of fresh peaches expected to be shipped under the order. Because that rate is applied to actual shipments, it must be established at a level that will produce sufficient income to pay the committee's expected expenses. The recommended budget and rate of assessment are usually acted upon by the committee before a season starts and expenses are incurred on a continuous basis. The budget and assessment rate must be approved prior to the start of the fiscal period so that the committee will have the authority to incur expenses and the funds to pay such expenses.

The committee met November 5, 1991, and unanimously recommended 1992–93 marketing order expenditures of $16,350. The committee also recommended an assessment rate of $0.01 per bushel of assessable peaches shipped under Marketing Order 918. In comparsion, 1991–92 fiscal period proposed expenditures were $18,000 and the assessment rate was $0.01 per bushel.

The 1992–93 budget projects an estimated assessment income of $15,000 based on shipments of 1.5 million bushels of fresh peaches. In addition to the projected assessment income, additional funds would be made available by drawing $850 from the reserve account ($759 in 1991–92) and $500 in accrued interest from the reserve account ($750 in 1991–92). The committee's reserve is well within the amount authorized under the marketing order.

The major committee expenditure projected for 1992–93 is the management services fee of $12,000. This fee is paid to the Georgia Farm Bureau Marketing Association to manage the committee's daily operations. This expenditure remains unchanged from fiscal period 1991–92. Other proposed expenditures for 1992–93 are the same as, or slightly lower than, those proposed for the 1991–92 fiscal period.

While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additonal costs may be passed on to producers. However, these costs would be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 918

Marketing agreements, Peaches, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 918 be amended as follows:

PART 918—FRESH PEACHES GROWN IN GEORGIA

1. The authority citation for 7 CFR part 918 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. A new § 918.228, is added to read as follows:

§ 918.228 Expenses and assessment rate.

Expenses of $15,000 by the Georgia Peach Industry Committee are authorized, and an assessment rate of $0.01 per bushel of assessable peaches is established for the fiscal period ending February 28, 1993. Any unexpended funds may be carried over as a reserve into 1993–94 fiscal period.

Dated: December 5, 1991.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91–29592 Filed 12–10–91; 8:45 am]

BILLING CODE 3410–02–M

FEDERAL ELECTION COMMISSION

[Notice 1991–22]

11 CFR Part 114

Campaign Travel on Corporate Aircraft

AGENCY: Federal Election Commission.

ACTION: Notice of disposition of petition for rulemaking.

SUMMARY: The Commission announces its disposition of a Petition for Rulemaking filed on July 25, 1991 by Common Cause. 56 FR 41496 (Aug. 21, 1991). The petition sought revisions to 11 CFR 114.9(e) regarding reimbursement for the use of corporate aircraft by candidates, political committees and political parties in connection with Federal elections. The Commission has decided not to initiate a rulemaking at this time to revise the corporate travel rules. Further information is provided in the supplementary information which follows.

DATES: January 10, 1992.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On July 25, 1991, Common Cause filed a petition for rulemaking regarding reimbursement of corporations for the use of corporate and other privately financed aircraft in connection with Federal elections. The regulations set forth at 11 CFR 114.9(e) require candidates, their agents, and others traveling on their behalf to pay the first class air fare for travel to cities served by regularly scheduled commercial service, and to pay the usual charter rate for travel to cities not served by a regularly scheduled commercial service. The petition urged the Commission to withdraw these regulations and replace them with provisions that would require candidates, political committees and political parties to reimburse corporations "at the same price it would cost to charter similar aircraft" in all cases. Common Cause argued that the current rules permit reimbursement "at rates which do not accurately or fairly reflect the value of the services being provided."

The Commission published a Notice of Availability on August 21, 1991, which sought public comments on the petition. See 56 FR 41496 (Aug. 21, 1991). In response, six written comments were received. The comments from the Internal Revenue Service and the Federal Aviation Administration indicated that the changes sought by the petitioner would not conflict with regulations promulgated by these agencies. The other comments were equally divided as to the merits of proposed changes to the reimbursement provisions in 11 CFR 114.9(e).

Upon reviewing the comments on the petition and evaluating the implications of the proposed revisions, the Commission has decided not to initiate a rulemaking at this time, for several reasons. First, Common Cause has not presented any evidence of specific instances in which the Commission's regulations have permitted corporations to provide travel services of greater value than the reimbursement received.

Next, Common Cause's proposed solution requiring payment of the charter rate would not resolve the perceived problem that "corporations (are) providing special treatment and financial benefits for Members of Congress and candidates and (are) opening the door to special access for the corporations." If this is actually a problem, the solution would be to prohibit candidates from using corporate aircraft for travel in connection with any election, not to make candidates pay the charter rate.

In addition, prior to the promulgation of the current rules in 1977, the Commission thoroughly considered and rejected a number of alternative approaches, including requiring payment of the charter rate as well as prohibiting campaign-related flights on corporate aircraft. The approach chosen has proved to be practical and readily enforceable. Accordingly, the Commission concludes that this long-standing rule simply has not presented problems sufficient to warrant the fundamental revisions Common Cause now proposes.

Finally, the reimbursement rate set forth at 11 CFR 114.9(e) is consistent with, if not more stringent than the rates used by the House of Representatives' Committee on Standards of Official Conduct in investigating potential violations of the Rules of the House of Representatives. It is also consistent with the General Services Administration's regulations regarding disclosure of the value of permissible air travel by federal officials on corporate airplanes under the Ethics in Government Act.

Therefore, at its open meeting of December 5, 1991, the Commission voted not to initiate a rulemaking at this time to revise the Commission's corporate travel regulations at 11 CFR 114.9(e) along the lines suggested in the Petition for Rulemaking. Copies of the General Counsel's recommendation on which the Commission's decision is based are available for public inspection and copying in the Commission's Public Records Office, 999 E Street, NW., Washington, DC 20463, (202) 219-4140 or toll-free (800) 424-9530.

Dated: December 5, 1991.

John Warren McGarry,

Chairman, Federal Election Commission.

[FR Doc. 91-29604 Filed 12-10-91; 8:45 am]

BILLING CODE 6715-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 101 and 201

[Docket No. RM92-1-000]

Revisions to Uniform Systems of Accounts To Account for Allowances Under the Clean Air Act Amendments of 1990 and Regulatory-Created Assets and Liabilities and to Form Nos. 1, 1-F, 2 and 2-A

Issued December 2, 1991.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend its Uniform Systems of Accounts (USofA) for public utilities, licensees and natural gas companies. Briefly, the Commission is proposing: (1) To establish uniform accounting requirements for allowances, arising from title IV of the Clean Air Act Amendments of 1990 (CAAA),[1] for emission of sulfur dioxide; and (2) to establish generic accounts to record assets and liabilities created through the ratemaking actions of regulatory agencies. The revisions regarding the CAAA pertain primarily to public utilities; however, the new accounts established for the recording of regulatory-created assets and liabilities will apply to licensees and natural gas companies as well.

The Commission proposes to add new balance sheet and income statement accounts to the USofA to record the acquisition, holding and disposition of allowances. Additionally, the proposed rule includes requirements for the valuation and reporting of allowances and related transactions. The Commission is also proposing to add new balance sheet and income statement accounts in the USofA for the recording of assets and liabilities created by the ratemaking actions of regulatory agencies. The Commission proposes to revise four of the Annual Reports it prescribes (FERC Form Nos. 1, Annual Report of Major public utilities, licensees and others; 1-F, Annual Report of Nonmajor public utilities and licensees; 2, Annual Report of Major natural gas companies; and 2-A, Annual Report of Nonmajor natural gas companies)[2] to include the new accounts and new schedules proposed in this rulemaking.[3]

DATES: An original and 14 copies of the written comments on this proposed rule must be filed with the Commission by February 10, 1992. An original and 14 copies of any reply comments must be filed with the Commission by March 11, 1992. All comments should reference Docket No. RM92-1-000.

ADDRESSES: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Gregory A. Berson, Office of Chief Accountant, Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426 (202) 219-2603.

Michael Bardee, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 (202) 208-0626.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document, excluding appendix A (containing revised pages for FERC Form Nos. 1, 1-F, 2 and 2-A), in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208-1397. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this proposed rule, excluding appendix A (containing revised pages for FERC Form Nos. 1, 1-F, 2 and 2-A), will be available on CIPS for 10 days from the date of issuance. The complete text on diskette in

[1] Pub. L. No. 101-549, title IV, 104 Stat. 2399, 2584 (1990).

[2] The current versions of these forms bear the following OMB approval numbers: Form 1, No. 1902-0021; Form 1-F, No. 1902-0029; Form 2, No. 1902-0028; Form 2-A, No. 1902-0030.

[3] The proposed revised schedules for Forms 1, 1-F, 2, and 2-A are not being published in the **Federal Register**, but are available from the Commission's Public Reference Room.

WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

Table of Contents

I. Introduction

The Federal Energy Regulatory Commission (Commission) is proposing to amend its Uniform Systems of Accounts (USofA) for public utilities and licensees (public utilities) and natural gas companies (gas companies).[4] Briefly, the Commission is proposing: (1) To establish uniform accounting requirements for allowances, arising from title IV of the Clean Air Act Amendments of 1990 (CAAA),[5] for emission of sulfur dioxide; and (2) to establish generic accounts to record assets and liabilities (related to allowances or to other matters) created through the ratemaking actions of regulatory agencies. The revisions regarding the CAAA pertain primarily to public utilities; however, the new accounts established for the recording of regulatory-created assets and liabilities will apply to gas companies as well.

The Commission proposes to revise four of the Annual Reports it prescribes (FERC Form Nos. 1, Annual Report of Major public utilities, licensees and others (Form 1); 1-F, Annual Report of Nonmajor public utilities and licensees (Form 1-F); 2, Annual Report of Major natural gas companies (Form 2); and 2-A, Annual Report of Nonmajor natural gas companies (Form 2-A)) [6] to include the new accounts and new schedules proposed in this rulemaking.[7]

The Commission proposes to add new balance sheet and income statement accounts to the USofA to record the acquisition, holding and disposition of all allowances. Additionally, the proposed rule includes requirements for the valuation and reporting of allowances and related transactions. The Commission is also proposing to add new balance sheet and income statement accounts in the USofA for the recording of assets and liabilities created by the ratemaking actions of regulatory agencies.

The purpose of the proposed rule is to provide useful financial and statistical information to regulatory agencies and other users of the financial statements of public utilities by establishing uniform accounting and reporting requirements for allowance transactions. Additionally, the proposed rule will provide needed direction for both public utilities and gas companies on the accounting and reporting of regulatory-created assets and liabilities.

An important objective of the proposed rule is to provide sound and uniform accounting and financial reporting for allowances. The Commission believes such requirements are needed at this time because, while EPA will not issue allowances until 1995, allowances may be traded before they are issued. Thus, the proposed rule will ensure that all allowances, including allowances traded pre-issuance, are accounted for in a consistent and appropriate manner. The proposed rule is not intended to promote or discourage particular CAAA compliance strategies.

The proposed rule also is not intended to prescribe the ratemaking treatment for allowances. The Commission's proposal does not bar regulatory commissions (including this Commission) from adopting any particular ratemaking treatment. Should a regulatory commission require a utility under its jurisdiction to use a particular ratemaking treatment, any resulting differences in the treatment of allowances for rate and accounting purposes would be recognized in the utility's books of accounts as regulatory assets and liabilities, as discussed below.

II. Reporting Burden

The annual reporting burden for collection of information, as revised herein, is estimated to be 220,000 hours for the Form 1 and 660 hours for the Form 1-F for all public utilities filing these forms and 113,850 hours for the Form 2 and 2,610 hours for the Form 2-A for all gas companies filing these forms. The industry burden is based on an estimate of 1,215 average hours for the 181 public utilities which complete a Form 1 filing, 30 average hours for the 22 public utilities which complete a Form 1-F filing, 2,475 average hours for the 45 gas companies which complete a Form 2 filing, and 30 average hours for the 85 gas companies which complete a Form 2-A filing, all on an annual basis. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding these burden estimates or any other aspect of

[4] Section 301(a) of the Federal Power Act (FPA), 16 U.S.C. 825(a) (1988), and section 8 of the Natural Gas Act (NGA), 15 U.S.C. 717g (1988), authorize the Commission to prescribe rules and regulations concerning accounts, records and memoranda as necessary or appropriate for purposes of administering the FPA and the NGA. The Commission may prescribe a system of accounts for jurisdictional companies and, after notice and opportunity for hearing, may determine the accounts in which particular outlays and receipts will be entered, charged or credited.

[5] Pub. L. No. 101-549, title IV, 104 Stat. 2399, 2584 (1990).

[6] Form 1 consists of approximately 130 non-consecutively numbered pages and a 5-page index. See 18 CFR 141.1. The current version bears the OMB approval No. 1902-0021. Form 1-F consists of approximately 20 consecutively numbered pages, 1-20, and 30 non-consecutively numbered substitute pages from the Form 1 that may be used in lieu of the comparable pages in the first section. See 18 CFR 141.2. The current version bears the OMB approval No. 1902-0029. Form 2 consists of approximately 162 non-consecutively numbered pages and a 4-page index. See 18 CFR 260.1. The current version bears the OMB approval No. 1902-0028. Form 2-A consists of approximately 32 consecutively numbered pages, 1-22, and 32 non-consecutively numbered substitute pages from the Form 2 that may be used in lieu of the comparable pages in the first section. See 18 CFR 260.2. The current version bears the OMB approval No. 1902-0030.

[7] Appendix A consists of the proposed revised schedules for Forms, 1, 1-F, 2, and 2-A. Appendix A is not being published in the Federal Register, but is available from the Commission's Public Reference Room.

this collection of information, including suggestions for reducing this burden, to the Federal Energy Regulatory Commission, 941 North Capitol Street, NE., Washington, DC 20426 [Attention: Michael Miller, Information Policy and Standards Branch, (202) 208–1415]; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission].

III. Background

A. Overview of the CAAA

The CAAA subject public utilities to new emission reduction requirements and limit the amount of sulfur dioxide and nitrogen oxides that their generating units may lawfully emit. The CAAA require reductions in sulfur dioxide emissions to two phases. Phase I begins on January 1, 9995, and applies to 110 large, high-emitting, coal-fired utility plants specifically listed in the statute. Phase II begins on January 1, 2000, and applies to virtually all existing utility units with capacity exceeding 25 megawatts an to new utility units (generally those commencing operation after November 15, 1990) of any size.

The CAAA do not require a change of any kind in state law regulating electric utility rates.[8] The CAAA also do not modify the FPA or affect the Commission's authority under the FPA.[9] Additionally, the CAAA exempt the acquisition or disposition of allowances from the provisions of the Public Utility Holding Company Act of 1935.[10]

B. Emission Reduction Requirements and Limitations

The CAAA set annual tonnage limitations for sulfur dioxide emissions from "affected units."[11] The CAAA also require the Environmental Protection Agency (EPA) to allocate annual allowances in an amount equal to each existing unit's statutory emissions limit.[12] The CAAA define an allowance as an authorization to emit, during or after a specified calendar year, one ton of sulfur dioxide.[13] Allocated allowances are held or distributed by the designated representative of the unit's owner or operator.

During Phase I, affected units are prohibited from emitting more sulfur dioxide than the tonnage limitation stated in the CAAA,[14] unless the unit's owner or operator holds allowances at least equal to the unit's actual emissions. A utility exceeding the tonnage limitation and not having sufficient allowances must pay a penalty of $2,000 per ton of excess emissions, adjusted for inflation, and must offset the excess emissions by equal emission reductions in the following calendar year(s).[15]

For Phase II, subject to certain exceptions, the CAAA limit annual utility emissions of sulfur dioxide after January 1, 2000, to 8.95 million tons.[16] To maintain this cap, the CAAA require owners or operators of new units to obtain allowances from existing allowance holders, or through auctions or direct sales to be conducted by EPA.

C. Trading of Allowances

The CAAA allow trading of allowances,[17] and require EPA, by May 15, 1992, to issue regulations governing such trading.[18] The CAAA require the allowance transfer regulations to, *inter alia*: (1) Permit transfers of allowances before their issuance; (2) prohibit the use of allowances before the calendar year for which they were allocated; (3) provide for the identification of unused allowances; (4) provide for unused allowances to be carried forward and added to allowances allocated in later years; and (5) prohibit allowance transfers from becoming effective for compliance purposes until EPA receives and records written certification of the transfers.[19] The CAAA also require EPA to implement a system for issuing, recording and tracking allowances.[20]

D. Sales and Auctions of Allowances

The CAAA require EPA to withhold for direct sale and auction 2.8 percent of the annual allowance allocations.[21] In the direct sales, EPA will sell up to 25,000 allowances annually beginning in 1993, and 50,000 allowances annually beginning in 2000, at a price of $1,500 per allowance, adjusted for inflation. Eligible independent power producers will be given priority for direct sales. In the auctions, EPA will offer at least 150,000 allowances annually beginning in 1993. EPA-withheld allowances that are auctioned will be sold to the highest bidder, with no minimum price. In addition, any person holding allowances may submit them for auction by EPA and specify a minimum price. The auctions are open to any person. EPA must record and publicly report the nature, prices and results of each auction, including the prices of successful bids. Both the direct sales and the auctions will include "spot allowances" and "advance allowances," with spot allowances usable in the year of the sale and advance allowances usable seven years after the sale.

Proceeds of the direct sales and the auctions will be transferred on a pro-rata basis to the owners or operators of the affected units from whom the allowances were withheld.[22] Any allowances offered but not sold at auction will returned on a pro-rata basis to the owners or operators from whom the allowances were withheld.

IV. Discussion

A. Purpose and Objectives

The USofA does not now specify accounting or reporting requirements for allowances. Several aspects of the allowance program warrant revisions to the USofA and corresponding changes in reporting requirements. These aspects concern the classification, valuation, expense recognition, sale or other disposition and reporting of allowances. A number of alternative accounting approaches are possible. Thus, revision of the USofA is needed to provide guidance, uniformity and consistency in accounting and reporting for the allowances. Additionally, revisions of the USofA are needed to provide accounts and instructions for regulatory-created assets, liabilities and related expenses, including those related to allowances.

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[8] 42 U.S.C. 7651b(f).

[9] *Id.*

[10] 42 U.S.C. 7651b(j).

[11] An "affected unit" is a fossil fuel-fired unit subject to the requirements of the CAAA.

[12] With minor exceptions, the removal of an affected unit from commercial operation after November 15, 1990, does not affect the unit's allocation of allowances under Phases I or II. 42 U.S.C. 7651b(a).

[13] 42 U.S.C. 7651a(3).

[14] 42 U.S.C. 7651c, Table A. The CAAA provide exceptions for EPA-approved extensions and substitutions. 42 U.S.C. 7651c (c), (d).

[15] 42 U.S.C. 7651j.

[16] 42 U.S.C. 7651b(a) and 7651d(a)(3).

[17] 42 U.S.C. 7651b(b).

[18] *Id.* EPA issued its proposed regulations on October 29, 1991. See 56 FR _____ (1991). EPA's proposed regulations do not appear to preclude or contravene any part of the Commission's proposed accounting regulations.

[19] 42 U.S.C. 7651b(b).

[20] 42 U.S.C. 7651b(d).

[21] 42 U.S.C. § 7651o(b). On May 23, 1991, EPA issued proposed regulations for conducting these sales and auctions, as well as regulations under which certain independent power producers may obtain written guarantees of the availability of allowances and may exercise priority in purchasing allowances through the direct sale. 56 FR 23,744 (May 23, 1991).

[22] 42 U.S.C. 7651o(c)(6), (d)(3).

B. Accounting for Allowances

1. Account Classification

Allowances meet the accounting definition of an asset [23] in that they confer a specific legal right to emit pollutants from fossil-fueled generating units. Allowances have characteristics that could be used to support their asset classification either as: (1) Utility property (*i.e.*, plant costs); (2) deferred charges; (3) financial instruments; or (4) inventories (fuel or other). The Commission must select the classification that best reflects the nature of the allowances and promotes uniformity of accounting practices.

The CAAA define an allowance as a limited authorization to emit, during or after a specified calender year, one ton of sulfur dioxide. The CAAA state that the allowances are not property rights.[24] Further, allowances usable in a specified year are fungible, *i.e.*, they are identical in character and interchangeable. Generally, a utility can use any allowance to comply with the CAAA.[25]

A utility may acquire allowances in essentially four ways. The first is by statute as a matter of right; the CAAA require EPA to allocate specified numbers of allowances to affected public utilities in perpetuity at no cost. The second is under the various CAAA provisions requiring EPA to give additional allowances to certain utilities using specified compliance options, some of which may require some investment or other expenditure by the utility. [26] Third, allowances may be obtained through direct sales and auctions by EPA. Fourth, allowances may be acquired through open market purchases. Public utilities may reduce their need for allowances through a number of strategies for complying with the CAAA's emission limitations, including installing flue gas desulfurization systems (*i.e.*, scrubbers), fuel switching, modifying their generation mix, retiring or reducing use of "dirty" plants, purchasing power and conservation.

In classifying allowances for accounting purposes, one option is to classify allowances as utility plant, on the premise that the allowances are needed for operation of fossil-fueled generating units, and can be viewed as being directly related to the generating unit itself. Arguably, the decision to build a fossil-fueled plant may be based, in part, on the cost and availability of the allowances or the auxiliary plant equipment needed to reduce emissions and, thus, the need for allowances. According to this argument, as the cost of the utility plant is capitalized, so should be the allowances. If the allowances are classified as part of utility plant, then the appropriate account in which to record allowances would be Account 303, Miscellaneous Intangible Plant.[27]

A second option is to classify allowances as miscellaneous deferred charges in Account 186, Miscellaneous Deferred Debits.[28] This classification is arguably supported by the CAAA's specification that the allowances are not property rights. Additionally, Account 186, a "catch-all" account, may be suitable because no other existing account can accommodate an asset with the characteristics of allowances.

A third option would be to classify allowances as financial instruments based on the fact that allowances can be traded, in many respects, like securities. If viewed as financial instruments, the appropriate classification would be in Account 124, Other Investments.[29]

A fourth option is to classify allowances as inventory. The fact that allowances are required only when a utility burns fuel that produces sulfur dioxide emissions may support classification of allowances as a component of the cost of fuel inventory, *i.e.*, recordable in Account 151, Fuel Stock.[30]

However, another inventory classification option, and the one that the Commission proposes, is to create two new inventory accounts for allowances. The accounts would be entitled "Account 158.1, Allowance Inventory" and "Account 158.2, Allowances Withheld." [31] As contemplated, these accounts would not be part of utility plant, fuel, investments or deferred debits. Instead, the accounts would be included in the "Current and Accrued Assets" section of the Balance Sheet. Since the Commission is proposing to create new accounts for allowances, the Commission invites comments on whether and, if so, how the proposed regulations should apply to already-filed contracts expressly based on the existing accounts in the USofA, *e.g.*, account-specific cost-of-service formula rates or joint operating agreements.

The Commission proposes to treat allowances classified in Accounts 158.1 and 158.2 as inventories. Similar to inventories of manufacturing or mercantile enterprises, a public utility's supply of allowances consists of many identical fungible items that will be used in the production process or held for sale. Allowances can be used, albeit indirectly, in the production of electricity, similar to the way inventories of raw materials and supplies of a manufacturing company are used. Because a utility can generally use any eligible allowance to comply with the CAAA, there is no need, for inventory accounting purposes, to separately identify which allowances were used; [32] instead, the allowance inventory need only be reduced by the number of allowances used times the unit inventory cost for each allowance, as is the generally accepted practice in accounting for inventories. Allowances are not subject to depreciation or amortization as are long-lived assets (such as utility plant) used in the production process over a number of periods. Additionally, inventory accounting is based on objective and consistent measures of costing and uses rational and systematic approaches for pricing items of inventory and determining periodic income. The data derived from an inventory accounting approach will give utility regulators meaningful information that may be useful in ratemaking or other regulatory determinations.

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[23] Assets are probable future economic benefits obtained or controlled by a particular entity as a result of past transactions or events. Financial Accounting Standards Board (FASB), Financial Accounting Concepts Statement No. 6, Elements of Financial Statements, ¶ 25 in Accounting Statements—Original Pronouncements (1991).

[24] 42 U.S.C. 7651b(f).

[25] However, a relatively small number of allowances, such as those granted for units repowered with a qualifying clean coal technology, may not be transferred or used by any other source to meet emission requirements. 42 U.S.C. 7651h(c).

[26] *E.g.*, 42 U.S.C. 7651c (b)–(c) (substitution of units); 42 U.S.C. 7651c(d) (installation of technological emission reduction system to achieve a 90 percent emission reduction); 42 U.S.C. 7651h (repowering with a clean coal technology); 42 U.S.C. 7651c(f) (energy conservation and renewable energy).

[27] Account 303 includes the cost of licenses, privileges, and other intangible property necessary or valuable in the conduct of utility operations. 18 CFR part 101, Account 303.

[28] Account 186 includes all debits not provided for elsewhere. 18 CFR part 101, Account 186.

[29] Account 124 includes the book cost of investments not accounted for elsewhere. 18 CFR part 101, Account 124.

[30] Account 151 includes the book cost of fuel on hand. 18 CFR part 101, Account 151.

[31] The proposed classification would allow public utilities to include allowances first usable either currently or only in later years in Accounts 158.1 and 158.2.

[32] The Commission is aware that EPA is considering a proposal for allowances to be specifically identified through serialization. Although such identification may be appropriate for other purposes, the Commission believes, as explained below, that in this instance it may not be an appropriate method for financial accounting and reporting purposes.

The new accounts for allowances will enhance the relevance and reliability of the information about allowances.[33] By using new accounts for allowances, the Commission believes that it may avoid any preconceptions that might arise about the nature of the allowances if one of the existing accounts were used. No attempt would be made in the accounting records to correlate specific allowances with the various compliance strategies public utilities may decide to use (*e.g.*, scrubbers, compliance coal, fuel switching, purchased power, conservation). Consequently, Account 158.1 and 158.2 classification would not suggest or dictate any particular ratemaking treatment for the allowances and would therefore be consistent with the Commission's stated objective of being "rate-neutral."

2. Accounting Measurements of Allowances

a. *General rule.* The next step in accounting for allowances is measuring the value of the allowances. Five different attributes of an asset are commonly used for measuring its value: (1) Its historical cost; (2) its current cost; (3) its fair market value; (4) its net realizable value; and (5) the present value of future cash flows expected to be generated by the asset.[34] These attributes are discussed below. The choice of which attribute(s) to use to measure an asset's value depends on the nature of the asset and the relevance and reliability of the various attributes.

Generally, valuation of most major classes of assets (property, plant, equipment and most inventories) is based on historical cost. Historical cost is the amount of cash or its equivalent paid to acquire an asset, *i.e.*, its historical exchange price.[35] The Commission uses historical cost for valuing inventories of plant materials and operating supplies, as well as most other utility assets. However, the Commission measures the value of utility plant based on original cost, which is the historical cost to the person first devoting utility plant to public service.[36] There is an important distinction between historical cost and original cost. The original cost of utility plant does not change, even upon sale or transfer of the asset. Conversely, the historical cost of an asset can change; generally, it is the amount paid by an asset's most recent purchaser.

In contrast, current cost is the amount of cash, or its equivalent, that a particular entity would have to pay to acquire the same or an equivalent asset currently. This attribute is sometimes used to measure an inventory's residual usefulness.

Fair market value is the amount at which an allowance could reasonably be sold in a transaction between a willing buyer and a willing seller other than in a forced or liquidation sale. This attribute may be used for, *inter alia*, assets expected to be sold at prices below their previously reported value, such as some investments in marketable securities.

Net realizable value is the non-discounted amount of cash or its equivalent, less direct costs, expected to be realized by a particular entity upon sale or conversion of an asset. Short-term receivables and some inventories are reported at their net realizable values.

Present value, used for reporting long-term receivables/payables, is the discounted value of net future cash flow from the sale or conversion of an asset or liability.

The Commission proposes that public utilities use historical cost for measuring the value of allowances. Historical cost is the generally accepted measure of the value of intangible assets, such as franchises, patents, trademarks and other rights.[37] Historical cost is readily ascertainable and verifiable, free from bias and useful to regulators, investors and other users of a utility's financial statements.

The Commission believes that the use of original cost may not be appropriate for several reasons. First, under this proposed rule, the Commission would not consider allowances, for accounting purposes, to be utility plant subject to the Commission's original cost requirements. Second, use of original cost would not provide public utilities or financial statement users, including regulators, with relevant information on the cost of traded allowances. Third, use of original cost may have the undesirable result of discouraging the development of an efficient market for the allowances.

Therefore, the Commission proposes that all allowances be recorded at historical cost. Under this proposal, allowances obtained from EPA at no cost to the recipient [38] would be recorded at zero cost,[39] while purchased allowances would be recorded at their historical exchange price.[40]

If allowances are acquired as part of a "package" with equipment, fuel, or electricity, the historical cost of the allowances should be determined based upon their fair market value. If a utility acquires a stream of allowances that are eligible for use in different years, the cost of the full set of allowances should be allocated among the individual allowances based upon their fair market value, if possible. If fair market value is not ascertainable, the cost of the set of allowances should be allocated based on each allowance's present value.[41] The Commission invites comments, however, on whether other allocation measures may be more appropriate and, if so, why.

For determining present value, the Commission proposes, for uniformity and comparability among public utilities, the use of a discount rate that is based on a risk-free interest rate.

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[33] Relevance in an accounting sense refers not only to the pertinence of the information to the matter in question, but also to the information's capacity to make a difference in decisions made by users of the information. See FASB, Financial Accounting Concepts Statement No. 2, Qualitative Characteristics of Accounting Information, ¶¶ 46–57 in Accounting Standards—Original Pronouncements (1991).

To be reliable, information must be representationally faithful (*i.e.*, represent what it purports to represent), verifiable, free from error and neutral (*i.e.*, free from bias). *Id.* at ¶¶ 58–110.

[34] See FASB, Financial Accounting Concepts Statement No. 5, Recognition and Measurement in Financial Statements of Business Enterprises, in Accounting Standards—Original Pronouncements (1991).

[35] The USofA defines "cost" as the amount of money actually paid for property or services or, when the consideration given is other than cash, the value determined on a cash basis. 18 CFR part 101, Definition No. 9.

[36] See 18 CFR part 101, Definition No. 23.

[37] See FASB, Accounting Principles Board Opinion No. 17, Intangible Assets, ¶¶ 15 and 25, in Accounting Standards—Original Pronouncements (1991).

[38] Allowances obtained from EPA include those obtained through annual allocations as a matter of statutory right and those for which a utility may qualify by using certain compliance options, including making certain investments or other expenditures. The cost of any such investments or expenditures would be accounted for independent of the allowances obtained as a result of such investments or expenditures, in the accounts already established for such costs in the USofA.

[39] Annual allowance allocations should be included in inventory balances as of January 1 of each year.

[40] However, as explained below, historical cost would not be appropriate for transactions between a regulated company and its affiliates.

[41] For example, assume on January 1, 1995, a utility acquires a stream of ten allowances for $10,000, with one allowance eligible for use in each year 1995 through 2004. Since, at any given time, an allowance currently eligible for use is likely to be more valuable than one first usable only ten years later, the utility would assign the total $10,000 purchase price according to each allowance's present value. Thus, the allowance eligible for use in 1995 would be assigned a larger value than the allowance first usable in 2004. Using a four percent discount rate, for example, the present value of the 1995 allowance would be $1,185, while the present value of the allowance usable in 2004 would be $832.

Specifically, the Commission proposes the use of the interest rate on ten-year government bonds (reported as the Treasury Department's ten-year constant maturity series) in effect during the month of acquisition. This measure is readily available, objective and reflective of changing economic conditions. This rate has also been used by the Commission in updating the return on equity in cases.[42] As with the allocation measures, however, the Commission invites comments on whether other discount rates may be more appropriate and, if so, why.

For allowances acquired from affiliated companies, the Commission believes that the acquiring company should record as its cost the inventory cost of the affiliated entity that first obtained the allowances. Affiliated companies, unlike non-affiliates engaging in market transactions, cannot be presumed to be dealing at arm's length; affiliated trades cannot be presumed to be competitive, free-market dealings. Where a utility acquires allowances from an affiliate at amounts other than the affiliated group's historical cost, the difference should be recognized as equity contributions between affiliates.[43]

b. *Accounting for Allowance Futures.* The Chicago Board of Trade has proposed to establish a futures market for trading CAAA allowances. The Commodities Future Trading Commission and other regulatory authorities have not yet acted on the proposal. The success of the proposal, if approved, will ultimately depend on the extent of trading in allowance futures contracts. The effect of a futures market in allowances on public utilities is not yet known. However, public utilities may become active in this market.

In general, a futures contract is an agreement between a futures exchange clearinghouse and a buyer or seller to buy or sell a financial instrument of commodity on a specified future date. The buyers and sellers are either "commercials," *i.e.*, those who produce or use the commodity in their trade or business, or speculators. Commercials use futures contracts to protect themselves from unfavorable price changes. This practice is commonly referred to as hedging. Speculators assume the risk that commercials are unwilling to accept, *i.e.*, the risk of unfavorable price changes. Speculators seek to make a profit based on their expectation of future prices. The Commission expects that most public utilities in the allowance futures market will be hedgers.

The Commission is proposing accounting instructions requiring public utilities to defer the costs or benefits from hedging transactions [44] and include such amounts in inventory values (Account 158.1) when the related allowances are acquired, sold or otherwise disposed of. As proposed, this accounting would be appropriate only when the utility, at the time it enters into the futures contract, designates the transaction in contemporaneous documents as one entered into for hedging purposes. Where the costs or benefits of hedging transactions are not identifiable with specific allowances, the amounts should be included in inventory values when the futures contract is closed. This proposed accounting requirement is intended to result in recognizing the costs and benefits from hedging activity in income when the related allowances are recognized in income. The Commission believes that this result is appropriate since the purpose of the hedging transaction is to offset the actual prices ultimately paid or received for the allowance.

The Commission believes that allowance transactions entered into for the purpose of speculating should not affect inventory pricing, since they do not relate to utility operations. Any costs of benefits incurred or realized through such transactions should be charged or credited to Account 421, Miscellaneous Nonoperating Income, or Account 426.5, Other Deductions, as appropriate.

c. *Value of allowances acquired through exchanges.* Most transactions involving allowances will probably involve the direct purchase of such allowances (monetary transactions). Some public utilities, however, if there are operational benefits in doing so, may enter into either exchanges with another entity (nonmonetary transactions) [45] or exchanges with "boot" (a combination of monetary and nonmonetary transactions).

Consistent with the proposal to adopt historical cost as the measure of the carrying value of allowances, the Commission proposes that public utilities account for allowances received in exchanges based on the recorded inventory value of the allowances relinguished. Therefore, where no boot is involved, the value of the allowances received in an exchange would be the same as the inventory cost of the allowances given in exchange.

When a utility must give up boot in an exchange transaction, the Commission proposes that the recordable cost of the newly-acquired allowance be the sum of the inventory cost of the allowances given up and the monetary consideration paid in boot for the newly-acquired allowances.

In determining the historical cost of the allowances received by a utility also receiving boot, the Commission proposes that a gain (or loss) be recorded to the extent that the amount of boot received exceeds a proportionate share of the recorded weighted average inventory cost of the allowance surrendered. The proportionate share would be based upon the ration of the monetary consideration received (*i.e.*, boot) to the total consideration received (monetary consideration plus the fair market value of the allowances received), or, if more clearly evident, the fair value of the allowances transferred.

The historical cost of the allowances received [46] would be equal to the amount derived by subtracting the difference between the boot received and the gain from the old inventory cost.

	Utility A "Old" allowances	Utility B "New" allowances
Fair Market Value (FMV) of Asset Surrendered	$500	$400
Boot Received by Utility A	100	
Inventory Cost of Utility A's "Old" Allowances:		
Case (1)	$0	
Case (2)	250	
Case (3)	500	

$$\$100-\left(\frac{100}{100+400}*0\right)=\$100$$

$$\$100-\left(\frac{100}{100+400}*250\right)=\$50$$

$$\$100-\left(\frac{100}{100+400}*500\right)=\$0$$

3. Inventory Methods for Allowances

a. *General method.* One of the more significant issues in inventory

[42] *E.g.*, Boston Edison Co. v. FERC, 885 F.2d 962, 966–67 (1st Cir. 1989).

[43] The equity contributions should be recorded in Account 211, Miscellaneous Paid-In Capital. 18 CFR part 101, Account 211.

[44] The costs or benefits from hedging transactions should be deferred in Account 186, Miscellaneous Deferred Debits, or Account 253, Other Deferred Credits, as appropriate.

[45] For example, a utility may exchange allowances usable in the current year for allowances usable only in future years.

[46] The following examples illustrate these principles, where Utility A exchanges allowances for a combination of allowances plus boot from Utility B:

accounting is the determination of the unit cost of items issued from inventory. When identical units of a particular item (such as allowances) are acquired at different times and different prices, the unit cost of the inventory must be determined in order to compute the cost of the allowances used in the production process (or sold or traded) and the cost assignable to the remaining inventory. To do this, it is appropriate to consider generally accepted inventory valuation methods.

Although specific identification is an acceptable inventory costing method in some situations and satisfactorily matches costs with revenues, the Commission believes that its use may not be appropriate for financial accounting and reporting for allowances. When units of inventory are identical and interchangeable, as are allowances, the specific identification method allows management undue discretion in determining income and inventory balances, through the choice of particular units for use or sale. With respect to fungible inventories, the specific identification method cannot be relied on to produce unbiased accounting information. Therefore, the Commission believes that the specific identification method is not appropriate in costing allowances for accounting purposes.

Other generally accepted inventory valuation methods include "First-In, First-Out" (FIFO), Weighted Average Cost, and "Last-In, First-Out" (LIFO). The choice of FIFO, Weighted Average Cost, or LIFO turns on which method reflects periodic income most precisely under the circumstances, *i.e.*, which method best matches the cost of inventories with the revenues produced from the use or other disposition of the inventories.

The FIFO method is based on the assumption that costs should be charged against revenue in the order in which they were incurred. This method is used most frequently for inventories of perishable merchandise and other goods for which style or model changes are frequent and when inventory is generally disposed of in the order of its acquisition. The FIFO method yields higher net income in periods of inventory price increases and lower net income in periods of inventory price decreases than do the other two methods. FIFO therefore accentuates the effect of inflation and deflation on a utility's income. However, FIFO results in ending inventory balances that more closely approximate the current replacement cost of the inventory.

The LIFO inventory method results in effects opposite to those of FIFO. When inventory prices rise, the LIFO method results in the lowest net income and the lowest ending inventory balances. The converse is true in periods of declining inventory prices. LIFO minimizes the effect of inventory price trends on net income by matching the most recent unit inventory costs to revenues generated during the current period. LIFO produces earnings that are fully available to a utility, *i.e.*, that are not needed to replace higher-cost inventories (in a period of rising inventory prices). Therefore, the LIFO method may be attractive from the standpoint of income recognition.

However, the LIFO method usually does not reflect the actual flow of inventory; it rests on the unrealistic assumption that the latest acquisitions are used first. The LIFO method may also be less objectionable than FIFO or Weighted Average Cost in the extent to which it allows management to determine income and inventory balances through the timing of inventory acquisitions.[47] Additionally, under LIFO, inventory balances will be lower in periods of rising inventory prices (since they reflect the cost of inventories of prior periods when prices were lower) and may distort working capital measurements.

The Weighted Average Cost method is based on the assumption that costs should be charged against revenue on the basis of an average cost. The weighted average is determined by dividing the total costs by the total number of units in inventory.[48] In a sense, the Weighted Average Cost method is a compromise between FIFO and LIFO in that the effect of price trends is averaged; for any given series of acquisitions, the weighted average cost will be the same regardless of the direction of price trends. The Weighted Average Cost method assumes a complete commingling of costs for units acquired with costs for units on hand. This method is realistic where identical inventory units are intermingled. Unlike the other methods, the Weighted Average Cost method provides the same cost for similar items of equal utility. This method also has the advantage of objectivity in that it limits management discretion in determining income and inventory balances.

The Commission proposes to use the Weighted Average Cost method for allowance inventories. This method provides a rational, systematic, and objective measure of the cost of allowances used or sold during a period and mitigates the effect of price changes on income and inventory balances. Additionally, the Weighted Average Cost method, unlike FIFO or LIFO, assigns a portion of the total cost of the allowance inventory to each unit, thereby recognizing the equal utility of each allowance and avoiding disproportionate costing of allowances.

As noted above, the Commission does not intend the proposed rule to proscribe regulatory commissions (including this Commission) from adopting particular treatments for ratemaking purposes. Therefore, should a regulatory commission require utilities under its jurisdiction to use another inventory method for ratemaking purposes the resulting differences in allowance inventory values and expense amounts for rate and accounting purposes would be recognized in each affected utility's books of accounts as regulatory assets and liabilities, as discussed below.

For example, assume that a state commission regulating a public utility adopts a ratemaking policy requiring that the first allowance sold by the utility in a given year (as opposed to allowances used for compliance purposes) be treated for retail ratemaking purposes as having the acquisition cost of the highest cost allowance acquired that year; that the second allowance sold be treated as having the acquisition cost of the second highest cost allowance acquired, *etc.* Also assume that in the given year, the utility buys one allowance for $600, buys another allowance for $400 and is allocated eight cost-free allowances by EPA. The utility's allowance inventory for the year thus contains 10 allowances with a total cost of $1,000. When the utility first sells an allowance, it would record a regulatory liability reflecting the retail portion of the $500 difference between the $100 inventory issuance cost for accounting purposes (determined by weighted average cost) and the $600 cost for retail ratemaking purposes (determined by specific identification). When the utility next sells an allowance, it would record a regulatory liability reflecting the retail portion of the $300 difference between the $100 cost for accounting purposes and the $400 cost for retail ratemaking purposes. When the utility uses or sells

[47] For example, to increase income when prices are rising, purchases may be made at the end of the accounting period so that the lower costs of prior periods would be used in determining the cost of inventories used during the period. Conversely, income could be reduced if additional purchases are made during the accounting period, though not required, and the purchase price of the latest purchases are used in determining income.

[48] The weighted average unit cost of inventory issued (used) during a month is calculated as the sum of the beginning inventory balance plus purchases during the month, divided by total units available for use during the month.

each of the remaining eight allowances, the inventory issuance cost would be $100 for accounting purposes but $0 for retail ratemaking purposes. The regulatory liability thus would be amortized (extinguished) to match the ratemaking treatment. By so doing, the economic effect of regulation is properly reflected in the utility's net income.

As another example, assume that the state in the preceding example required the utility to use FIFO for retail ratemaking purposes and that the utility first obtained its eight cost-free allowances, next bought the $600 allowance and then bought the $400 allowance. As the utility uses each of the first eight allowances, the utility would record a regulatory asset reflecting the retail portion of the $100 difference between the $100 cost for accounting purposes and the $0 cost for retail ratemaking purposes, thus accumulating a total regulatory asset balance for the first eight allowances of $800 times the retail pro rata share. When the utility uses its ninth allowance, this balance would be reduced by the retail portion of the $500 difference between the $100 cost for accounting purposes and the $600 cost for retail ratemaking purposes. When the utility uses its tenth allowance, the remaining balance would be reduced (extinguished) by the retail portion of the $300 difference between the $100 cost for accounting purposes and the $400 cost for retail ratemaking purposes. These examples demonstrate that the proposed accounting rules are flexible enough to accommodate various ratemaking treatments, without requiring any particular treatment.[49]

b. *Vintaging of allowances.* The Commission must also address whether a utility should group all allowances together in a single inventory or should instead group allowances by vintage, *i.e.*, by the year in which the allowances are first eligible for use.[50] The Commission proposes the use of vintaging because it appears to produce the most accurate results. Under this approach, only those allowances eligible for use during the current year (including allowances carried over from prior years) would be included in the determination of the weighted average cost of the vintage. This method is reasonable because allowances not usable in the current year cannot be "withdrawn" from the allowance inventory during the current year. Likewise, allowances first eligible for use in a future year would be appropriately segregated by future vintage year. In this way, only those allowances usable in each future vintage year would be included in the weighted average cost determinations for that year.[51] Therefore, the Commission proposes to require public utilities to maintain supporting records for Accounts 158.1 and 158.2 by vintage that include the number and cost of allowances eligible for use in each year.[52]

c. *Withheld allowances.* Public utilities will also need to account for allocated allowances that are withheld by EPA for sale or auction. Section 416 of the CAAA requires EPA to withhold 2.8 percent of the annual allocation of allowances beginning in 1995.[53] The CAAA provide that proceeds of the sales and auctions will be distributed to the public utilities within 90 days after the sale or auction. Any unsold allowances will be returned to the public utilities from whom the allowances were withheld.

Because the withheld allowances are not available for use by the utility, the Commission proposes that they be accounted for separately from those allowances that are available for use by the utility. For this reason, the Commission proposes to establish a separate, but parallel, inventory account. New Account 158.2, Allowances Withheld, would be used to record the acquisition cost of allowances owned by the utility but withheld by EPA. As with allowances classified in Account 158.1, a vintaged Weighted Average Cost method would be used for pricing allowances withdrawn from Account 158.2 inventory.[54] Gains or losses on sales of withheld allowances would be accounted for in the same manner as sales of allowances recorded in Account 158.1, as discussed more fully below. The cost of allowances returned to the utility by EPA would be transferred from Account 158.2 to Account 158.1 at their weighted average inventory cost.

4. Expense Recognition of Allowances

When allowances are used to comply with the CAAA, their inventory cost should be charged to expense. The first issue regarding the charge to expense is when to make the charge. Three options are to: (1) Expense monthly the number of allowances, including fractional amounts, corresponding to the amount of sulfur dioxide emitted; (2) expense the allowances in discrete units (*i.e.*, one allowance) as each ton of sulfur dioxide is emitted; or (3) expense the allowances when the total number of allowances required for the year is known.

The Commission proposes to adopt the first option, *i.e.*, to require expense recognition of allowances on a monthly basis. This approach is consistent with the principle of accrual accounting and with the accrual accounting requirements of the USofA.[55] Accrual accounting recognizes the effects of transactions and events as they occur. Since a utility's allowance obligation accrues as sulfur dioxide is emitted, the corresponding cost of allowances (including fractional amounts) should be recognized in expense during the month in which the sulfur dioxide is emitted. Such an expense recognition method is systematic and rational. This method results in the recognition of expenses during the period in which the related energy is produced and used. Further, this method matches costs to the revenues received for production, thereby accurately reflecting the results of operations during each period. Additionally, the method avoids distortions of periodic income that may result from expensing only discrete units or from waiting until the total annual allowance quantity is known. For these reasons, the Commission proposes to require public utilities to charge allowances (including fractional

[49] While these examples are limited to the effects of different inventory accounting methods, the same principles would apply to the effects of other differences between accounting and ratemaking, including those related to the valuation and sale of allowances.

[50] Allowances allocated annually by EPA are usable in or after the year issued. Allowances acquired through EPA-sponsored sales or auctions are either "spot" or "advance" allowances. Spot allowances are usable during the current (or future years) while advance allowances may be used only in or after the seventh year after they are first offered for sale. Because the CAAA permit allowances to be transferred or sold before EPA issues the allowances, public utilities may obtain allowances from others that are first usable only in specified future years.

[51] Public utilities would need to know the inventory carrying cost of allowances in each vintage year to determine, *inter alia*, the gain or loss upon sale or other disposition of such allowances.

[52] These records will allow verification of weighted average inventory cost and may provide useful information for ratemaking purposes.

[53] Specifically, section 416 requires EPA to withhold 2.8 percent of the allocation of allowances for each year from 1995 through 1999 inclusive and 2.8 percent of the basic Phase II allowance allocation for each year beginning in the year 2000. 42 U.S.C. 7651o(b).

[54] The dollar balance in Account 158.2 would typically be zero. However, when a utility acquires a stream of allowances that includes allowances withheld by EPA, the portion of the acquisition cost allocated to the withheld allowances would be included in Account 158.2.

[55] See 18 CFR part 101, General Instruction No. 11. Monthly accounting is also consistent with the accounting period used in the USofA. See 18 CFR part 101, General Instruction No. 4 (requiring that the books be kept on a monthly basis).

amounts) to expense in the month in which related sulfur dioxide emissions occur.[56]

A situation may arise in which a utility emits more sulfur dioxide than it has allowances in inventory, *i.e.*, the utility may have an allowance inventory shortage. In such a situation, the Commission proposes that the utility accrue the estimated cost of acquiring the needed allowances in inventory (Account 158.1). The utility would charge Account 158.1 for the estimated cost of the necessary allowances and credit the appropriate liability account. Any difference between the estimated and actual cost of the allowances would be charged (or credited) to Account 158.1.[57]

If a utility incurs a fine or penalty as a result of noncompliance with the CAAA, the USofA requires that such fine or penalty be charged to Account 426.3, Penalties.[58]

The second major issue regarding the charge to expense is the proper expense account to use to record the expired cost of the allowances. Because the allowances are a cost incident to the production of fossil-fuel generated power, the Commission proposes, for accounting purposes, to classify their cost as a power production operating cost. Specifically, the Commission proposes to create a new expense account for allowances. The new account would be entitled "Account 509, Allowances" and would include the cost of allowances used in the production of steam for electric generation. Account 509 classification would appropriately recognize the nature of allowances as part of the cost of production, but would not require any particular ratemaking treatment.[59] Public utilities could then seek authorization to recover the cost of allowances through their base rates or fuel adjustment clause, or in any other appropriate manner.

[56] Public utilities may need to annually adjust the fractional amount of allowances charged to reflect EPA's annual deduction quantities.

[57] The same accounting rules would apply to allowances deducted by EPA from a utility's future allocation of allowances because of excess emissions in the current year. See 42 U.S.C. 7651j(b).

[58] Account 426.3, Penalties, includes payments by the utility of penalties or fines for violation of any regulatory statutes by the company or its officials. 18 CFR part 101, Account 426.3.

[59] An alternative classification would be in Account 501, Fuel. Since the Commission does not propose to classify allowances as fuel cost, however, classification in Account 501 would not be appropriate. Moreover, Account 501 classification would, for a number of public utilities, automatically allow fuel adjustment clause recovery of the allowances, contrary to the Commission's intent that this proposed rule not determine the ratemaking treatment for allowances.

5. Gain or Loss on Disposition of Allowances

A public utility may sell allowances on the open market or through an EPA-sponsored auction. A utility may also exchange or transfer allowances.[60] The Commission proposes, through adoption of new balance sheet and income statement accounts, the use of a two-step process for accounting for gains and losses on the sale, exchange, or other disposition of allowances.[61] The first step would be to recognize the gain or loss in income. The second step would be to recognize the economic effects of actions taken, or expected to be taken, by regulators in their ratemaking treatment of the gain or loss on the disposition of allowances.

Upon the sale of allowances, a gain or loss would be recognized for the difference between the net proceeds received for the allowances and their inventory value. Any gain would be recorded in new Account 411.8, Gains from Disposition of Allowances, and any loss would be recorded in new Account 411.9, Losses from Disposition of Allowances. Income taxes associated with the gain or loss would be recorded in the appropriate utility operating income tax accounts.[62]

The second step would be to recognize the ratemaking treatment of the gain or loss through the use of new generic accounts for regulatory-created liabilities and assets. As explained in more detail below, the Commission proposes the following new accounts for the recording of such regulatory-created assets and liabilities: Account 182.3, Other Regulatory Assets; Account 244, Other Regulatory Liabilities; Account 407.3, Regulatory Debits; and Account 407.4, Regulatory Credits.

As a simplified example of how a utility would account for a sale of allowances, assume that an allowance with an inventory cost of $500 was sold for $2,000 in a state where the policy is to amortize allowance gains as a reduction of rates over five years. The utility would first record the gain of $1,500 in Account 411.8. Second, the utility would record a charge to new Account 407.3 (Regulatory Debits) and a credit to Account 244 (Other Regulatory Liabilities) for the $1,500 gain. The utility would amortize the amount in Account 244 ratably over a five-year period to Account 407.4 (Regulatory Credits).

[60] The Commission proposes to view allowances transferred to EPA to satisfy emissions of other members of an allowance pool as a sale by the utility surrendering the allowance and a purchase by the utility emitting the sulfur dioxide.

[61] Since the CAAA specify that allowances are not property rights, the Commission does not believe that the sale, transfer or other disposition of the allowances would require Commission authorization under section 203 of the EPA. 16 U.S.C. 824b (1988).

[62] The applicable accounts are: Account 409.1, Income Taxes, Utility Operating Income; Account 410.1, Provision for Deferred Income Taxes, Utility Operating Income; and Account 411.1, Provision for Deferred Income Taxes-Credit, Utility Operating Income.

C. Regulatory-Created Assets and Liabilities

As part of the proposed rule, the Commission proposes to revise the USofA to provide the accounting for assets and liabilities that are created through the ratemaking actions of regulatory agencies and are not includible in other accounts. Over the years, regulators have required certain costs to be collected in rates in different periods than these costs were recognized under USofA requirements. Regulators have also required certain gains or other income, properly recognized for accounting purposes in the current period, to be used to reduce rates over a number of future periods. These rate determinations have come to encompass an increasingly broad spectrum of the revenues, expenses, gains, and losses used to measure performance for financial reporting purposes. Some examples are plant phase-ins, normalization of significant non-recurring operating or maintenance expenses, and gains and losses on the sale of assets. These items are properly included in income in the current period for accounting purposes but may be included in determinations of a utility's rates over a number of subsequent years. The rate actions themselves create economic effects that need to be recognized in the financial statements of the regulated enterprises.

The Commission intends the proposed changes to the USofA to produce financial statements that are more descriptive and informative regarding the economic effects of the ratemaking process. Such information should enhance the usefulness of a utility's financial statements to the Commission, retail ratemaking authorities, financial institutions, stockholders and the general public.

As proposed, new Account 182.3, Other Regulatory Assets, would include costs incurred and charged to expense which have been, or are soon expected to be, authorized for recovery through rates, and which are not specifically provided for in other accounts. The regulatory-created assets would be recorded by charges to Account 182.3 and credits to new Account 407.4, Regulatory Credits. Amounts in Account 182.3 would be amortized to new

Account 407.3, Regulatory Debits, over the appropriate rate recovery period. If rate recovery is disallowed, the amounts in Account 182.3 would be written off.

New Account 244, Other Regulatory Liabilities, as proposed, would include liabilities imposed by the ratemaking actions of regulatory agencies, and not specifically provided for in other accounts. Included in Account 244 would be revenues or gains realized and credited to income that the company is required, or is expected to be required, to use to reduce future rates. The regulatory-created liabilities would be established by credits to Account 244 and debits to new Account 407.3. Amounts included in Account 244 would be amortized to Account 407.4 over the appropriate period of rate recognition. However, if it is later determined that amounts recorded in Account 244 will not be used to reduce future rates, such amounts should be removed from that account.

D. Reporting Requirements

The proposed accounting for allowances and regulatory-created assets and liabilities, if adopted, will require new schedules and changes to existing schedules in the Annual Reports filed with the Commission by public utilities and gas companies. Specific proposed changes are discussed below and the proposed new schedules are attached in appendix A. Also attached in appendix A are other schedules with proposed conforming changes required by this proposed rule.

1. Proposed New Form 1 and 1-F Schedules

a. *Allowances (Accounts 158.1 and 158.2) Schedule*—(1) Proposed Schedule Format—The Commission proposes to provide a column format and line items for the reporting by public utilities of certain disclosures about their allowance program. Twelve columns are proposed which would require reporting of the number and cost (two columns) of transactions involving allowances usable in the current year, those usable in each of the next three years, those usable in the subsequent years, and total columns for the number and cost of allowance transactions for all current and succeeding years.

The proposed line items for Account 158.1 will include: The beginning- and end-of-year balances; acquisitions by issuance and returns from EPA; acquisitions by purchases and transfers; relinquishments by charges to expense; relinquishments by sales and transfers; net sales proceeds; and gains and losses. The proposed line items for Account 158.2 will include: the beginning- and end-of-year balances; allowances withheld and returned by EPA; net sales proceeds; and gains and losses.

(2) Proposed instructions. Proposed Instruction 1 is a general instruction requiring the respondent to report all the requested information. Proposed Instruction 2 requires all allowance acquisitions to be reported at historical cost. Proposed Instruction 3 requires the reporting of allowances using a weighted average cost allocation method and other accounting as prescribed by proposed General Instruction No. 21 of the USofA. Proposed Instruction 4 requires the respondent to separate the allowance transactions by the period of their use in the columns provided. Proposed Instructions 5 and 6 require the respondent to report on certain lines the allowances withheld and returned by EPA and the net sales proceeds and gains or losses resulting from EPA's sale or auction of the withheld allowances. Proposed Instructions 7 and 8 require the respondent to report on certain lines the names of vendors/transferors of allowances acquired and the names of purchasers/transferees of allowances disposed of and identification of affiliated companies for both kinds of transactions. Proposed Instruction 9 requires the respondent to report the net costs and benefits of hedging transactions on a separate line under purchases/transfers and sales/transfers. Proposed Instruction 10 requires the respondent to report on certain lines the net proceeds and gains and losses from allowance sales, including separate lines for reporting of the net sales proceeds from the sales of owned and withheld allowances to affiliated companies.

b. *Other regulatory assets (Account 182.3) schedule*—(1) Proposed schedule format—The Commission proposes to provide a column format for the reporting by public utilities of certain disclosures about their other regulatory assets. Five columns are proposed which would require reporting of the description and purpose of other regulatory assets, the amounts charged to this account, the amounts credited and the contra account charged, and the end-of-year balance.

(2) Proposed Instructions. Proposed Instruction 1 is a general instruction requiring the respondent to report all the requested information concerning other regulatory assets created through the ratemaking actions of regulatory agencies and not includible in other accounts. Proposed Instruction 2 requires the respondent to show in column (a) the period of amortization for regulatory assets being amortized. Proposed Instruction 3 allows the respondent to group by classes any minor items or amounts which amount to five percent or less of the balance of Account 182.3 at the end of the year or for amounts of less than $50,000, whichever is less.

c. *Other Regulatory Liabilities (Account 244) Schedule*—(1) Proposed Schedule Format—The Commission proposes to provide a column format for the reporting by public utilities of certain disclosures about their other regulatory liabilities. Five columns are proposed which would require reporting of the description and purpose of other regulatory liabilities, the amounts credited to this account, the amounts debited and the contra account credited, and the end-of-year balance.

(2) Proposed Instructions. Proposed Instruction 1 is a general instruction requiring the respondent to report all the requested information concerning other regulatory liabilities created through the ratemaking actions of regulatory agencies and not includible in other accounts. Proposed Instruction 2 requires the respondent to show in column (a) the period of amortization for regulatory liabilities being amortized. Proposed Instruction 3 allows the respondent to group by classes any minor items or amounts which amount to five percent or less of the balance of Account 182.3 at the end of the year or for amounts of less than $50,000, whichever is less.

2. Proposed New Form 2 and 2–A Schedules

a. *Other regulatory assets (Account 182.3) schedule*—(1) Proposed schedule format.—The Commission proposes to provide a column format for the reporting by gas companies of certain disclosures about their other regulatory assets. Five columns are proposed which would require reporting of the description and purpose of other regulatory assets, the amounts charged to this account, the amounts credited and the contra account charged, and the end-of-year balance.

(2) Proposed instructions.—Proposed Instruction 1 is a general instruction requiring the respondent to report all the requested information concerning other regulatory assets created through the ratemaking actions of regulatory agencies and not includible in other accounts. Proposed Instruction 2 requires the respondent to show in column (a) the period of amortization for regulatory assets being amortized. Proposed Instruction 3 allows the respondent to group by classes any

minor items or amounts which amount to five percent or less of the balance of Account 182.3 at the end of the year or for amounts of less than $50,000, whichever is less.

b. *Other regulatory liabilities (Account 244) schedule*—(1) Proposed schedule format.—The Commission proposes to provide a column format for the reporting by gas companies of certain disclosures about their other regulatory liabilites. Five columns are proposed which would require reporting of the description and purpose of other regulatory liabilities, the amounts credited to this account, the amounts debited and the contra account credited, and the end-of-year balance.

(2) Proposed instructions. Proposed Instruction 1 is a general instruction requiring the respondent to report all the requested information concerning other regulatory liabilities created through the ratemaking actions of regulatory agencies and not includible in other accounts. Proposed Instruction 2 requires the respondent to show in column (a) the period of amortization for regulatory liabilities being amortized. Proposed Instruction 3 allows the respondent to group by classes any minor items or amounts which amount to five percent or less of the balance of Account 182.3 at the end of the year or for amounts of less than $50,000, whichever is less.

V. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA) [63] requires a description and analysis of proposed rules that will have a significant economic impact on a substantial number of small entities. The Commission is not required to make such analyses if a rule would not have such an effect. The Commission does not believe that this rule will have such an impact on small entities. Most public utilities and gas companies do not fall within the RFA's definition of small entities.[64] Therefore, the Commission certifies that this proposed rule, if adopted, will not have a "significant economic impact on a substantial number of small entities."

VI. Environmental Statement

The Commission concludes that issuance of this rule would not represent a major federal action having a significant adverse effect on the human environment under the Commission regulations implementing the National Environmental Policy Act.[65] This rule would be procedural in nature and therefore falls within the categorical exemptions provided in the Commission's regulations. Consequently, neither an environmental impact statement nor an environmental assessment is required.[66]

VII. Information Collection Statement

The Office of Management and Budget's (OMB) regulations at 5 CFR 1320.12 (1991) require that OMB approve certain information and recordkeeping requirements imposed by an agency. The information collection requirements in this proposed rule are contained in FERC Form No. 1, "Annual Report of Major public utilities, licensees and others;" FERC Form No. 1–F, "Annual Report of Nonmajor public utilities and licensees;" FERC Form No. 2, "Annual Report of Major natural gas companies;" and FERC Form No. 2–A, "Annual Report of Nonmajor natural gas companies."

The Commission uses the data collected in these annual reports to carry out its regulatory responsibilities pursuant to the FPA and the NGA. The Commission's Office of Chief Accountant uses the data in its audit program and continuous review of the financial conditions of regulated companies. Public utilities and gas companies are required to file these forms annually. The hours listed previously in this preamble reflect the total amount of time required to complete these annual report forms.

The Commission believes that the proposed rule will facilitate the Congressional objective of encouraging public utilities to choose the least-cost method of complying with the CAAA's more stringent emission limitation requirements. The dissemination of this information will assist all parties in assessing the costs of implementing alternative compliance strategies. By requiring uniform and consistent accounting and reporting, the proposed rule will make available to regulatory agencies, public utilities, and the general public, comparable financial and statistical information about allowances established under the CAAA. This information should prove useful in evaluating the cost of compliance with the CAAA, thereby aiding regulatory agencies in their ratemaking activities and promoting an efficient market for the allowances, without significantly increasing the reporting burden for public utilities.

The Commission also believes that the proposed addition of new accounting and reporting requirements for regulatory assets and liabilities will provide useful information without significantly increasing the reporting burden for public utilities and gas companies. Regulatory assets and liabilities exist only because of the economic effects of regulation. Regulated entities and the general public have a need for information on the nature of such items and will benefit from uniform and consistent accounting and reporting of such items.

The proposed changes are being submitted to the OMB for its review. Interested persons may obtain information on the requirements of the proposed regulation by contacting the Federal Energy Regulatory Commission, 941 North Capitol Street, NE., Washington, DC 20426 (Attention: Michael Miller (202) 208–1415). Comments on the requirements of the proposed regulation can be sent to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for the Federal Energy Regulatory Commission).

VIII. Public Comment Procedures

The Commission invites interested persons to submit written comments on the matters proposed in this NOPR. An original and 14 copies of the comments must be filed with the Commission no later than February 10, 1992. An original and 14 copies of any reply comments must be filed with the Commission no later than March 11, 1992. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, and should refer to Docket No. RM92–1–000.

All written comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room at 941 North Capitol Street, NE., Washington, DC, 20426, during regular business hours.

List of Subjects

18 CFR Part 101

Electric power, Electric utilities, Reporting and recordkeeping requirements, Uniform systems of accounts.

18 CFR Part 201

Natural gas, Reporting and recordkeeping requirements, Uniform system of accounts.

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[63] 5 U.S.C. 601–12 (1988).

[64] 5 U.S.C. 601(3) (1988) (citing section 3 of the Small Business Act, 15 U.S.C. 632 (1988)). Section 3 of the Small Business Act defines a "small-business concern" as a business which is independently owned and operated and which is not dominant in its field of operation.

[65] 52 FR 47,897 (Dec. 17, 1987). III FERC Stats. & Regs. ¶ 30,783 (Dec. 10, 1987) (codified at 18 CFR part 380).

[66] See 18 CFR 380.4(a)(1).

In consideration of the foregoing, the Commission proposes to amend parts 101 and 201, chapter I, title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.

Lois D. Cashell,

Secretary.

PART 101—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR PUBLIC UTILITIES AND LICENSEES SUBJECT TO THE PROVISIONS OF THE FEDERAL POWER ACT

1. The authority citation for part 101 is revised to read as follows:

Authority: 42 U.S.C. 7101–7352 (1988); E.O. 12,009, 3 CFR 1978 Comp., p. 172; 31 U.S.C. 9701 (1988); 16 U.S.C. 791a–825r (1988); 16 U.S.C. 2601–2645 (1988).

PART 101—[AMENDED]

2. In part 101, Definitions 30 through 38 are redesignated as 31 through 39 and new Definition 30 is added to read as follows:

Definitions

* * * * *

30. *Regulatory Assets and Liabilities* are assets and liabilities resulting from rate actions of regulatory agencies. Regulatory assets and liabilities arise from specific revenues, expenses, gains or losses being included in net income determinations in one period under the requirements of the Uniform System of Accounts but included (or reasonably expected to be included) in other periods for purposes of developing the rates that the utility is authorized to charge for its utility services.

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PART 101—[AMENDED]

3. In part 101, General Instructions, paragraph 21 is added to read as follows:

General Instructions

* * * * *

21. Allowances.

A. Title IV of the Clean Air Act Amendments of 1990, Pub. L. No. 101–549, title IV, 104 Stat. 2399, 2584, provides for the issuance of allowances to emit sulfur dioxide as a means to limit the emission of sulfur dioxide by various entities, including public utilities. Public utilities owning allowances must account for such allowances at cost in Account 158.1, Allowance Inventory, or Account 158.2, Allowances Withheld, as appropriate.

B. When allowances first usable in different vintage years are purchased, the cost applicable to each vintage must be determined based on the fair market value of the allowances, or if fair market value is not ascertainable, by a present-value based measurement. The interest rate used for the present-value calculation must be the current rate on ten-year government bonds (reported as the Treasury Department's ten-year constant maturity series) in the month in which the allowances are acquired.

C. The underlying records supporting Accounts 158.1 and 158.2 must be maintained in sufficient detail so as to provide the number of allowances and the related cost by vintage year.

D. Inventory included in Accounts 158.1 and 158.2 must be accounted for on a vintage basis using a weighted-average method of cost determination. Allowances usable but not used in the current year must be carried forward to the next vintage year inventory with the appropriate recognition of their inventory cost in the next vintage year's weighted-average cost.

E. Account 158.1 must be credited and Account 509, Allowances, debited so that the cost of allowances to be remitted for the year is charged to expense monthly in direct proportion to the monthly amount of emissions. This may, in certain circumstances, require allocation of the cost of an allowance between months on a fractional basis.

F. In any period in which the actual emissions exceed the amount allowable based on the allowances owned for use in that period, the utility must estimate the cost to acquire the additional allowances needed, and charge Account 158.1 with the estimated cost. Should the actual cost of these allowances differ from the estimated cost, the differences must be recognized in the current vintage year inventory.

G. Any penalties assessed by the U.S. Environmental Protection Agency for the emission of excess pollutants must be charged to Account 426.3, Penalties.

H. Any gains or losses realized from the sale or other disposition of allowances must be recognized in Account 411.8, Gains from Disposition of Allowances, and Account 411.9, Losses from Disposition of Allowances, respectively. If appropriate, a regulatory liability or asset must be established in Account 244, Other Regulatory Liabilities, or Account 182.3, Other Regulatory Assets, respectively, related to such gain or loss and amortized to reflect the rate treatment of such gain or loss. (*See* Definition No. 30.)

I. The costs and benefits of exchange-traded allowance futures contracts used to protect the utility from the risk of unfavorable price changes ("hedging transactions") must be deferred in Account 186, Miscellaneous Deferred Debits, or Account 253, Other Deferred Credits, as appropriate. Such deferred amounts must be included in Account 158.1, Allowance Inventory, in the month in which the related allowances are acquired, sold or otherwise disposed of. Where the costs or benefits of hedging transactions are not identifiable with specific allowances, the amounts must be included in Account 158.1 when the futures contract is closed. The costs and benefits of exchange-traded allowance futures contracts entered into as a speculative activity must be charged or credited to Account 421, Miscellaneous Nonoperating Income, or Account 426.5, Other Deductions, as appropriate.

* * * * *

PART 101—[AMENDED]

4–5. In part 101, Balance Sheet Accounts, Accounts 158.1, 158.2, 182.3 and 244 are added to read as follows:

Balance Sheet Accounts

* * * * *

158.1 Allowance Inventory

A. This account must include the cost of allowances owned by the utility and not withheld by the U.S. Environmental Protection Agency. See General Instruction No. 21 and Account 158.2, Allowances Withheld.

B. This account must be credited and Account 509, Allowances, must be debited concurrent with the monthly emission of sulfur dioxide.

C. Separate subdivisions of this account must be maintained so as to separately account for those allowances usable in the current year and in each subsequent year. The underlying records of these subdivisions must be maintained in sufficient detail so as to identify each allowance included; the origin of each allowance; and the acquisition cost, if any, of the allowance.

158.2 Allowances Withheld

A. This account must include the cost of allowances owned by the utility but withheld by the U.S. Environmental Protection Agency (EPA). (See General Instruction No. 21.)

B. The inventory cost of the allowances released by EPA for use by the utility must be transferred to Account 158.1, Allowance Inventory.

C. The underlying records of this account must be maintained in sufficient detail so as to identify each allowance included; the origin of each allowance;

and the acquisition cost, if any, of the allowances.

* * * * *

182.3 Other Regulatory Assets

A. This account must include the amounts of regulatory-created assets, not includible in other accounts, resulting from the ratemaking actions of regulatory agencies. (See Definition no. 30). This account must include, but is not limited to:

(1) Regulatory assets related to utility plant costs such as plant phase-ins, rate moderation plans or rate levelization plans.

(2) Regulatory assets related to amortization or normalization of significant non-recurring or infrequent operating or maintenance expense items that are allowed by the appropriate regulatory body to be included in rates in specified future periods.

(3) Regulatory assets related to the realized loss on the disposition of allowances.

B. The amounts included in this account must be established by credits to Account 407.4, Regulatory Credits. The amounts in this account must be charged to Account 407.3, Regulatory Debits, concurrent with the recovery of the amounts in rates.

C. If rate recovery of all or part of an amount included in this account is disallowed, the disallowed amount must be charged to Account 426.5, Other Deductions, or Account 435, Extraordinary Deductions, as appropriate, in the year of the disallowance.

D. The records supporting the entries to this account must be kept so that the utility can furnish full information as to the nature and amount of each regulatory asset included in this account, including justification for inclusion of such amounts in this account.

* * * * *

244 Other Regulatory Liabilities

A. This account must include the amounts of regulatory liabilities, not includible in other accounts, imposed on the utility by the ratemaking actions of regulatory agencies. (*See* Definition No. 30.) This account must include, but is not limited to:

(1) Revenues recovered in current rates for costs expected to be incurred in future periods.

(2) Amounts of regulatory liabilities related to realized gains from the disposition of allowances.

B. The amounts included in this account must be established by debits to Account 407.3, Regulatory Debits. The amounts in this account must be credited to Account 407.4, Regulatory Credits, concurrent with the period such amounts are returned to customers through rates.

C. If it is later determined that the amounts recorded in this account will not be returned to customers through rates, such amounts must be credited to Account 421, Miscellaneous Nonoperating Income, or Account 434, Extraordinary Income, as appropriate, in the year such determination is made.

D. The records supporting the entries to this account must be so kept that the utility can furnish full information as to the nature and amount of each regulatory liability included in this account.

PART 101—[AMENDED]

6.–7. In part 101, Income Accounts, Accounts 407.3, 407.4, 411.8 and 411.9 are added to read as follows:

Income Accounts

* * * * *

407.3 Regulatory Debits

This account must be debited with the amounts credited to Account 244, Other Regulatory Liabilities, to record the regulatory liabilities imposed on the utility by the ratemaking actions of regulatory agencies. This account must also be debited with the amounts credited to Account 182.3, Other Regulatory Assets, concurrent with the recovery of such amounts in rates.

407.4 Regulatory Credits

This account must be credited with the amounts debited to Account 182.3, Other Regulatory Assets, to establish regulatory assets. This account must also be credited with the amounts debited to Account 244, Other Regulatory Liabilities, concurrent with the return of such amounts to customers through rates.

* * * * *

411.8 Gain From Disposition of Allowances

This account must be credited with the gain on the sale, exchange, or other disposition of allowances in accordance with paragraph (H) of General Instruction No. 21. Income taxes relating to losses recorded in this account must be recorded in Account 409.1, Income Taxes, Utility Operating Income.

411.9 Losses From Disposition of Allowances

This account must be debited with the loss on the sale, exchange, or other disposition of allowances in accordance with paragraph (H) of General Instruction No. 21. Income taxes relating to losses recorded in this account must be recorded in Account 409.1, Income Taxes, Utility Operating Income.

* * * * *

PART 101—[AMENDED]

8.–9. In part 101, Operation and Maintenance Expense Accounts, Account 509 is added to read as follows:

Operation and Maintenance Expense Accounts

* * * * *

509 Allowances

This account must include the cost of allowances expensed concurrent with the monthly emission of sulfur dioxide. (See General Instruction No. 21.)

* * * * *

PART 201—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR NATURAL GAS COMPANIES SUBJECT TO THE PROVISIONS OF THE NATURAL GAS ACT

10. The authority citation for part 201 is revised to read as follows:

Authority: 15 U.S.C. 717–717w (1988); 15 U.S.C. 3301–3432 (1988); 42 U.S.C. 7101–7352 (1988); E.O. 12,009; 3 CFR 1978 Comp., p. 142.

PART 201 [AMENDED]

11. In part 201, Definitions 31 through 39 are redesignated as 32 through 40 and new Definition 31 is added to read as follows:

Definitions

* * * * *

31. *Regulatory Assets and Liabilities* are assets and liabilities resulting from rate actions of regulatory agencies. Regulatory assets and liabilities arise from specific revenues, expenses, gains or losses being included in net income determinations in one period under the requirements of the Uniform System of Accounts but included (or reasonably expected to be included) in other periods for purposes of developing the rates that the utility is authorized to charge for its utility services.

* * * * *

PART 201—[AMENDED]

12.–13. In part 201, Balance Sheet Accounts, Accounts 182.3 and 244 are added to read as follows:

Balance Sheet Accounts

* * * * *

182.3 Other Regulatory Assets

A. This account must include the amounts of regulatory created assets, not includible in other accounts, resulting from the ratemaking actions of regulatory agencies. (See Definition No. 31.) This account must include, but is not limited to:

(1) Regulatory assets related to plant costs such as plant phase-ins, rate moderation plans or rate levelization plans.

(2) Regulatory assets related to amortization or normalization of significant non-recurring or infrequent operating or maintenance expense items that are allowed by the appropriate regulatory body to be included in rates in specified future periods.

B. The amounts included in this account must be established by credits to Account 407.4, Regulatory Credits. The amounts in this account must be charged to Account 407.3, Regulatory Debits, concurrent with the recovery of the amounts in rates.

C. If rate recovery of all or part of an amount included in this account is disallowed, the disallowed amount must be charged to Account 426.5, Other Deductions, or Account 435, Extraordinary Deductions, as appropriate, in the year of the disallowance.

D. The records supporting the entries to this account must be kept so that the utility can furnish full information as to the nature and amount of each regulatory asset included in this account, including justification for inclusion of such amounts in this account.

* * * * *

244 Other Regulatory Liabilities

A. This account must include the amounts of regulatory liabilities, not includible in other accounts, imposed on the utility by the ratemaking actions of regulatory agencies. (*See* Definition No. 32.) This account must include, but is not limited to:

(1) Revenues recovered in current rates for costs expected to be incurred in future periods.

(2) Amounts of regulatory liabilities related to realized gains from the disposition of allowances.

B. The amounts included in this account must be established by debits to Account 407.3, Regulatory Debits. The amounts in this account must be credited to Account 407.4, Regulatory Credits, concurrent with the period such amounts are returned to customers through rates.

C. If it is later determined that the amounts recorded in this account will not be returned to customers through rates, such amounts must be credited to Account 421, Miscellaneous Nonoperating Income, or Account 434, Extraordinary Income, as appropriate in the year such determination is made.

D. The records supporting the entries to this account must be so kept that the utility can furnish full information as to the nature and amount of each regulatory liability included in this account.

* * * * *

PART 201—[AMENDED]

14.–15. In part 201, Income Accounts, Accounts 407.3 and 407.4 are added to read as follows:

Income Accounts

* * * * *

407.3 Regulatory Debits

This account must be debited with the amounts credited to Account 244, Other Regulatory Liabilities, to record the regulatory liabilities imposed on the utility by the ratemaking actions of regulatory agencies. This account must also be debited with the amounts credited to Account 182.3, Other Regulatory Assets, concurrent with the recovery of such amounts in rates.

407.4 Regulatory Credits

This account must be credited with the amounts debited to Account 182.3, Other Regulatory Assets, to establish regulatory assets. This account must also be credited with the amounts debited to Account 244, Other Regulatory Liabilities, concurrent with the return of such amounts to customers through rate proceedings.

* * * * *

[FR Doc. 91–29433 Filed 12–10–91; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 19, 111,112, 122, 146

Proposed Customs Regulations Amendments Concerning Submission of Fingerprints

AGENCY: Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes amendments to various parts of the Customs Regulations to clarify Customs position regarding the submission of fingerprints when applying for certain occupations or requesting various identification cards. It is further proposed that, when permissible, a fee will be collected to recover both the fee now charged Customs by the Federal Bureau of Investigation for performing the fingerprint check, and Customs administrative costs. The proposals, if adopted, will allow Customs to continue providing, in a cost-effective manner, services which necessitate a fingerprint records check.

DATES: Comments must be received on or before January 10, 1991.

ADDRESSES: Comments (preferably in triplicate) should be addressed to the Regulations and Disclosure Law Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., room 2119, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Esther Mandelay, Office of Inspection and Control (202) 566–2140.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to a provision in Public Law 101–162, the Federal Bureau of Investigation (FBI) was authorized to establish a fee for processing fingerprint identification records for non-law enforcement employment and licensing purposes. The authorization is mentioned in a note to 28 U.S.C.A. 534 and indicates that the provision concerning fees was reenacted in Public Law 101–515.

On January 1, 1990, the FBI began charging Customs a $14.00 user fee whenever the fingerprints of various applicants for Customs related occupations or for identification cards are submitted for processing. On October 1, 1990, the fee was raised to $17.00. Customs sought exemption from the fee, but the FBI denied the request on the basis that the underlying reason for the check was employment or licensing purposes.

The amendments proposed in this document would allow Customs to charge a fee to recover the $17 charged us by the FBI, plus an additional 15% of that amount to cover Customs administrative overhead. Customs may assess such a fee pursuant to 31 U.S.C. 9701. Accordingly, the current charge would be $19.55, $17 (the FBI fee) plus $2.55 (15% to cover overhead). The fee will change whenever the amount charged by the FBI changes. District directors will inform those required to submit the fee of the correct amount.

On an annual basis, the Customs Airport Security Program alone, pursuant to discretionary authority to require fingerprints, submits to the FBI approximately 60,000 fingerprint cards

from individuals requesting unescorted access to Customs security areas. Several thousand other fingerprint checks are required by other programs. As a result, Customs will be billed more than $1 million per year by the FBI for fingerprint checks which are considered necessary to carrying out Customs responsibilities. Accordingly, Customs has determined that the proposed amendments to various sections of the Customs Regulations described below will allow Customs to recover both the approximately $1 million per year we will be billed by the FBI, and Customs administrative costs.

Additionally, the proposals include statements indicating whether submission of fingerprints is a required part of a particular application process, or whether it is a matter for the district director's discretion.

Amendments are proposed to the following sections:

Section 19.2 Application to Bond; Bond; Annual Fee

This section refers to the application required of an owner or lessee desiring to establish a bonded warehouse facility. It is proposed to amend the section by adding that submission of fingerprints may be required of applicants. Further, if the applicant is actually a business entity, provision is made for obtaining fingerprints from the individuals operating the business.

Section 111.12 Application for License, § 111.96 Fees.

Section 111.12 refers to the application required of those seeking to be licensed as customs brokers. It is proposed to amend the section by adding that submission of fingerprints may be required of applicants either at the time of filing the application or after the applicant obtains a passing score on the broker examination. The fingerprint processing fee will only be collected from successful examination takers. This will avoid the administrative burden of returning the fee to unsuccessful applicants since their fingerprints are not submitted to the FBI for processing. Also, § 111.96 would be amended to add the fingerprint fee to the other fees mentioned.

Section 112.42 Application for Identification Card

The submission of fingerprints is already stated as a mandatory part of the application for an identification card for cartmen, lightermen, and each employee thereof who receives, transports, or otherwise handles imported merchandise which has not cleared Customs custody. The amendment proposed to § 112.42 states that fingerprints submitted with such an application must be accompanied by a fee to cover the FBI charge and Customs administrative cost.

Section 122.182 Security Provisions

It is proposed to amend this section to make submission of fingerprints a mandatory part of the application process for those seeking an identification card, strip or seal used to gain unescorted access to the Customs security areas at an airport. Further, the proposal would require the submission of the appropriate fee to accompany the application.

Section 146.6 Procedure for Activation

This section refers to the application required of a zone operator or grantee seeking to activate a Foreign Trade Zone. It is proposed to amend the section to add that submission of fingerprints, either from an individual or operators of a business, may be required of applicants.

Pursuant to 19 U.S.C. 58c(e)(6)(C) (i) and (ii), Customs is precluded from collecting any fee, other than those specifically provided for, in connection with the designation or operation of any bonded warehouse, or in connection with the activation or operation of a Foreign Trade Zone. Accordingly, a fingerprint processing fee may not be collected in those situations. In the remaining situations, a fee may be assessed and collected.

Comments

Before adopting these proposals, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations and Disclosure Law Branch, room 2119, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, DC.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) it is certified that, if adopted, the proposed amendments will not have a significant impact on a substantial number of small entities. Accordingly, the proposals are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Drafting Information

The principal author of this document was John E. Doyle, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 19

Customs duties and inspection, Imports, Exports, Surety bonds, Warehouse.

19 CFR Part 111

Customs duties and inspection, Imports, Administrative practice and procedures, Brokers.

19 CFR Part 112

Customs duties and inspection, Imports, Administrative practice and procedures, Common carriers, Exports, Freight forwarders, Motor carriers.

19 CFR Part 122

Customs duties and inspection, Imports, Air carriers, Airports.

19 CFR Part 146

Customs duties and inspection, Imports, Exports, Foreign-trade zones.

Proposed Amendments

It is proposed to amend title 19 of the CFR, the Customs Regulations, as set forth below.

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

1. The general authority citation for part 19 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1624.

2. It is proposed to amend § 19.2(f) by adding the following text to the end of that paragraph.

§ 19.2 Application to bond; bond; annual fee.

* * * * *

(f) * * * The district director may require an individual applicant to submit fingerprints on Standard Form 87 at the time of filing the application, or in the case of applications from a business entity, may require the fingerprints, on

Standard Form 87, of all officers and managing officials of the business entity.

* * * * *

PART 111—CUSTOMS BROKERS

1. The authority citation for part 111 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1624, 1641, unless otherwise noted.

* * * * *

Section 111.96 also issued under 31 U.S.C. 9701.

2. It is proposed to amend § 111.12 by adding text to the end of paragraph (a) to read as follows:

§ 111.12 Application for license.

(a) * * * Fingerprints of the applicant may be required on Standard Form 87 at the time of filing the application, or after the applicant obtains a passing score on the broker examination.

* * * * *

3. It is proposed to amend § 111.96(a) by revising the paragraph heading and adding a sentence at the end to read as follows:

§ 111.96 Fees.

(a) *License fee; fingerprint fee.* * * * Applicants receiving notice that they achieved a passing score on an examination are then liable for payment of a fingerprint fee. The district director will inform the applicant of the current Federal Bureau of Investigation user fee for conducting fingerprint checks and the Customs administrative processing fee, the total of which must be paid to Customs before further processing of the application will occur.

* * * * *

PART 112—CARRIERS, CARTMEN, AND LIGHTERMEN

1. The authority citation for Part 112 continues to read as follows:

Authority: 19 U.S.C. 66, 1551, 1565, 1623, 1624.

2. It is proposed to revise § 112.42 to read as follows:

§ 112.42 Application for identification card.

An application for an identification card required pursuant to § 112.41 of this chapter, shall be filed personally by the applicant with the district director on Customs Form 3078 together with two 1¼" x 1¼" color photographs of the applicant. The fingerprints of the applicant shall also be required on Standard Form 87 at the time of filing the application. The district director will inform the applicant of the current Federal Bureau of Investigation user fee for conducting fingerprint checks and the Customs administrative processing fee, the total of which must be tendered with the application. The application may be referred for investigation and report concerning the character of the applicant.

PART 122—AIR COMMERCE REGULATIONS

1. The authority citation for part 122 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1433, 1436, 1459, 1590, 1594, 1623, 1624, 1644, 49 U.S.C. App. 1509.

2. It is proposed to amend § 122.182 by revising the fifth sentence of paragraph (d) and adding a sentence immediately thereafter. The remainder of the paragraph is unchanged. The revised paragraph would read in pertinent part as follows:

§ 122.182 Security provisions.

* * * * *

(d) * * * The fingerprints of the applicant will be required on fingerprint card form FD–258 at the time of filing the application. The district director will inform the applicant of the current Federal Bureau of Investigation user fee for conducting fingerprint checks and the Customs administrative processing fee, the total of which must be tendered with the application.* * *

* * * * *

PART 146—FOREIGN TRADE ZONES

1. The general authority citation for Part 146 continues to read as follows:

Authority: 19 U.S.C. 66, 81a–81u, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1623, 1624.

2. It is proposed to amend § 146.6 by adding the following text to the end of paragraph (a).

§ 146.6 Procedure for activation.

(a) *Application.* * * * The district director may also require the operator or grantee to submit fingerprints on Standard Form 87 at the time of filing the application. If the operator is an individual, that individual's fingerprints may be required. If the operator or grantee is a business entity, fingerprints of all officers and managing officials may be required.

* * * * *

Approved: November 13, 1991.

Carol Hallett,

Commissioner of Customs.

Peter K. Nunez,

Assistant Secretary of Treasury.

[FR Doc. 91–29501 Filed 12–10–91; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1310 and 1313

Records, Reports, and Exports of Listed Chemicals

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Drug Enforcement Administration (DEA) proposes to amend the regulations implementing the Chemical Diversion and Trafficking Act of 1988 (CDTA) to include hydrochloric acid and sulfuric acid as listed essential chemicals for the purpose of imposing controls on exports to cocaine producing countries. This notice also proposes to set export thresholds for these chemicals. The inclusion of these chemicals into the CDTA requires that any exporter of these chemicals comply with the regulated export transaction requirements specified in 21 CFR 1310 and 1313.

DATES: Written comments and objections must be received on or before January 10, 1992.

ADDRESSES: Comments and objections should be submitted to the Administrator, Drug Enforcement Administration, Washington, DC 20537 Attention: DEA Federal Register Representative/CCR.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug & Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: The CDTA of 1988 (Pub. L. 100–690) requires that any person who distributes, imports, or exports listed precursor and essential chemicals identify their customers, maintain retrievable records for a specified period of time, report suspicious or unusual orders, and provide advanced notification of imports and exports. 21 U.S.C. 802(35) also provides the Attorney General with the authority to add chemicals to the list of "listed essential chemicals" by regulation if they are used as solvents,

catalysts or reagents in the clandestine manufacture of controlled substances. 21 U.S.C. 802 (39)(A)(iii) allows the Attorney General by regulation to exclude categories of transactions deemed unnecessary for the enforcement of the CDTA. Authority for both of these actions has been delegated to the Administrator of the DEA by Department of Justice Regulations (28 CFR 0.100).

The clandestine manufacture of cocaine requires significant amounts of sulfuric acid and hydrochloric acid. Sulfuric acid is used during the processing of coca leaves to coca paste and during the production of cocaine base from cocaine paste. Hydrochloric acid is used to produce cocaine hydrochloride from cocaine base. Both of these chemicals are critical to the production of cocaine hydrochloride which is the form of cocaine smuggled into the U.S. from cocaine producing countries. Large quantities of both hydrochloric acid and sulfuric acid are produced in and exported from the United States.

The extensive use of hydrochloric acid and sulfuric acid for cocaine processing is indicated by the large number and size of seizures in South America for the period 1988–1990. During this time, at least 236,000 liters (62,351 gallons) of hydrochloric acid were seized in Bolivia and Colombia. Over 1.2 million liters (311,683 gallons) of sulfuric acid were seized in Bolivia, Colombia and Peru. Limited 1991 information indicates significant seizures are continuing.

In July 1990, the heads of state of the seven major industrialized nations met in Houston, Texas for the Sixteenth Annual Economic Summit. An outcome of this summit was the formation of the G–7 Chemical Action Task Force (CATF) under the chairmanship of the U.S. Department of Justice. This task force was charged with addressing the problem of diversion of chemicals which can be used in the clandestine manufacture of cocaine, heroin and synthetic drugs.

During a series of meetings held between October 1990 and April 1991 in Washington, DC, the CATF identified the chemicals most important to the production of illicit drugs and recommended 10 of them for international control. Specifically, the CATF recommended adding hydrochloric acid and sulfuric acid to the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances for the purpose of imposing controls on exports intended for targeted areas in which cocaine is illicitly manufactured. The group concluded that the principal countries of illicit cocaine production are in the Andean Region of South America and the chemicals used for making cocaine are manufactured predominantly in North America, Europe, some South American countries, and, to some extent, Asia. The CATF urged that countries take immediate action to implement these recommendations.

Consistent with the recommendations of the G–7 CATF and based on data available to the DEA regarding the importance and use of hydrochloric acid and sulfuric acid in the clandestine manufacture of cocaine, the DEA purposes to add hydrochloric acid and sulfuric acid to the "listed essential chemicals" section of the CDTA for the purpose of imposing controls on exports of these chemicals to designated countries. Designated countries are those in which illicit cocaine production has been identified and also some neighboring countries.

A review of U.S. export data for 1990 identified approximately 300 export transactions of hydrochloric acid and sulfuric acid to the proposed designated countries. The proposed thresholds for exports of hydrochloric acid and sulfuric acid to these countries resulted from an analysis of this export data. The list of designated countries is based on information from the CATF and other sources available to the DEA.

Based on available data, the CATF concluded that only those controls necessary for the effective control of international transactions of hydrochloric acid and sulfuric acid to drug producing countries should be applied. The DEA agrees with this conclusion and proposes to exclude domestic, import and export transactions to non-drug producing countries from the definition of regulated transactions under the CDTA. A foreign export customer must meet the established business and fixed street address requirements as listed in 21 CFR 1313.02(j). A person or business which functions as a broker or intermediary does not meet these requirements and is not considered a customer for purposes of the application of the CDTA. Therefore, exports through brokers or intermediaries in non-designated countries are not excluded if the ultimate destination of the export is a designated country.

The Administrator of the DEA hereby certifies that this proposed rule will have no significant impact upon entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. This proposed rule is not a major rule for purposes of Executive Order (E.O.) 12291 of February 17, 1981.

Pursuant to section 3(c)(3) and 3(e)(2)(C) of Executive Order 12291, this propose action has been submitted for review to the Office of Management and Budget.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 and it has been determined the proposed rule has no implications which would warrant the preparation of a Federalism Assessment.

List of Subjects in 21 CFR Part 1310

Drug Enforcement Administration, Drug traffic control, Reporting and record keeping requirements.

For reasons set out above, 21 CFR part 1310 is proposed to be amended as follows:

PART 1310—[AMENDED]

1. The authority citation for part 1310 continues to read as follows:

Authority: 21 U.S.C. 802, 830, 871(b).

2. Section 1310.02 is amended by adding paragraphs (b)(8) and (b)(9) to read as follows:

§ 1310.02 Substances covered.

* * * * *

(b) Listed Essential Chemicals

* * * * *

(8) Hydrochloric acid

(9) Sulfuric acid

3. Section 1310.04 is amended by adding paragraph (f)(2)(iv) to read as follows:

§ 1310.04 Maintenance of records.

* * * * *

(f) * * *

(2) Listed Essential Chemicals:

(iv) Exports to Designated Countries

Chemical	Threshold by volume (gal)	Threshold by weight (kg)
(A) Hydrochloric acid	10	44.4
(B)Sulfuric acid	25	174.0

4. A new § 1310.08, is added to read as follows:

§ 1310.08 Excluded transactions.

(a) Domestic and import transactions of hydrochloric acid and sulfuric acid are excluded by the Administrator from the definition of "regulated transaction" in 21 U.S.C. 802(39)(A), 21 CFR 1310.01(f) and 21 CFR 1313.02(d), and therefore are excluded from the application of sections 830 and 971 of the Controlled Substances Act and §§ 1310.03 through

1310.07 and 1313.12 through 1313.15 of title 21 of the Code of Federal Regulations.

(b) Export transactions of hydrochloric acid and sulfuric acid to all countries except the following are excluded by the Administrator from the definition of "regulated transaction" in 21 U.S.C. 802(39) and 21 CFR 1310.01(f) and 21 CFR 1313.02(d), and therefore are excluded from the application of sections 830 and 971 of the Controlled Substances Act and §§ 1310.03 through 1310.07 and §§ 1313.21 through 1313.41 of title 21 of the Code of Federal Regulations:

(1) Argentina.
(2) Bolivia.
(3) Brazil.
(4) Chile.
(5) Colombia.
(6) Ecuador.
(7) French Guiana.
(8) Guyana.
(9) Panama.
(10) Paraguay.
(11) Peru.
(12) Surinam.
(13) Uruguay.
(14) Venezuela.

Dated: October 29, 1991.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 91-29577 Filed 12-10-91; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 4 and 5

[Notice No. 732; Ref: Notice Nos. 710, 727]

RIN 1512-AA88 and AA87

Definition of "Brand Label" for Wine, and; Standard Wine Containers (91F006P and 90F275P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of Treasury.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document extends the comment period for Notice No. 727, a notice of proposed rulemaking (NPRM), published in the **Federal Register** on September 12, 1991 (56 FR 46393). ATF has received a request to extend the comment period in order to provide sufficient time for all interested parties to respond to the complex issues addressed in the NPRM.

DATES: Written comments must be received on or before January 10, 1992.

ADDRESSES: Send written comments to: Chief, Wine and Beer Branch; Bureau of Alcohol, Tobacco and Firearms; P.O. Box 50221; Washington, DC 20091-0221; ATTN: Notice No. 732.

FOR FURTHER INFORMATION CONTACT: James P. Fiscaretta, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202-927-8230).

SUPPLEMENTARY INFORMATION:

Background

On September 12, 1991, ATF published Notice No. 727 in the **Federal Register** (56 FR 46393) proposing to amend the definition of "brand label" in 27 CFR 4.10 for wine containers. In addition, the Bureau amended its earlier proposal regarding standrd wine containers, as set forth in Notice No. 710 (February 6, 1991; 56 FR 4770), and proposed an amendment to the regulations concerning the design of standard liquor bottles in 27 CFR 5.46.

The comment period for Notice No. 727 was scheduled to close on December 11, 1991. Prior to the close of the comment period ATF received a request to extend the comment period. The commenter, the National Association of Beverage Importers, Inc. (NABI), consists of U.S. corporations that are responsible for over 90 percent of the alcoholic beverages imported into this country each year. NABI stated that the association needed additional time to prepare exhibits and coordinate member company views for submission to ATF. Because of the intervention of the upcoming holiday season, NABI requested an extension of 60 days.

ATF finds an extension of the comment period is warranted. However, the Bureau believes that an extension of an additional 30 days is sufficient and is, therefore, extending the comment period until January 10, 1992.

Drafting Information

The author of this document is James P. Ficaretta, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, and Wine.

27 CFR Part 5

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Liquors and, Packaging and containers.

Authority and Issuance

This notice is issued under the authority in 27 U.S.C. 205.

Signed: December 9, 1991.

Daniel R. Black,

Acting Director.

[FR Doc. 91-29755 Filed 12-10-91; 8:45 am]

BILLING CODE 4810-31-M

Notices

Federal Register
Vol. 56, No. 238
Wednesday, December 11, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

December 6, 1991.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404–W Admin. Bldg., Washington, DC 20250, (202) 720–2118.

Revision

• Agricultural Marketing Service, Irish Potatoes Grown in Certain Designated Counties in Idaho and Malheur County, Oregon, under Marketing Agreement and Order No. 945, Recordkeeping; On occasion; Weekly; Monthly; Annually, Farms; Businesses or other for-profit; 51,606 responses; 339 hours, Robert F. Matthews (202) 720–5331.

Reinstatement

• Farmers Home Administration, Form FmHA 1962–1, Agreement for the Use of Proceeds/Release of Chattel Property, FmHA 1962–1, On occasion Individuals or households; Farms; 157,310 responses; 51,912 hours Jack Holston (202) 720–9736.

• Farmers Home Administration, 7 CFR 1942–C, Fire and Rescue Loans, FmHA 1942–52, 53, and 54, On occasion; Annually; Quarterly, State or local governments; Non-profit institutions; 2,879 responses; 6,184 hours, Jack Holston (202) 720–9736.

• Farmers Home Administration, 7 CFR 1902–C, Supervised Bank Accounts FmHA 1902–7 Recordkeeping; On occasion Businesses or other for-profit; Small businesses or organizations; 50 responses; 63 hours, Jack Holston (202) 720–9736.

• Farmers Home Administration, Form FmHA 1910–11, Application Certification, Federal Collection Policies for Consumer or Commercial Debts, FmHA 1010–11, On occasion, Individuals or households; State or local governments; Farms; Businesses or other for-profit; Non-profit institutions; Small Businesses or organizations; 52,400 responses; 4,192 hours, Jack Holston (202) 720–9736.

New Collection

• Animal and Plant Health Inspection Service, Scrapie Flock Certification and Animal Identification Procedures—9 CFR, parts 54 and 79, VS 5–21, VS 5–22, VS 5–23, Recordkeeping; On occasion, State or local governments; Farms; Federal agencies or employees; 40,189 responses; 124,697 hours, Dr. Gary Colgrove (301) 436–6954.

Donald E. Hulcher,

Deputy Departmental Clearance Officer.

[FR Doc. 91–29590 Filed 12–10–91; 8:45 am]

BILLING CODE 3410–01–M

Agricultural Marketing Service

Certification of Importer Organizations To Make Nominations to the Cotton Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: This notice serves to invite organizations that represent importers of cotton-containing products to make a request to the agency for certification of eligibility to nominate persons representing importers to membership on the Cotton Board. The Cotton Board is the administrative body responsible for the administration of the Cotton Research and Promotion Order.

FOR FURTHER INFORMATION CONTACT: Craig Shackelford, Cotton Division, Agricultural Marketing Service, (202) 720–2259.

SUPPLEMENTARY INFORMATION: This notice is issued pursuant to the Cotton Research and Promotion Act Amendments of 1990 and the Cotton Research and Promotion Order (7 CFR part 1205). Amendments to the Act were enacted by Congress under subtitle G of title XIX of the Food, Agriculture, Conservation and Trade Act of 1990 on November 28, 1990. These amendments provide for assessments on imported cotton and cotton-containing products and for representation of importers of cotton and cotton-containing products on the Cotton Board. A notice of proposed amendments to the Cotton Research and Promotion Order was published for public comment on April 10, 1991. The proposed amendment to the Order, addressing the public comments, was published on July 9, 1991. The proposed amendment was approved by a majority (60 percent) of importers and producers of cotton voting in a referendum conducted July 17–26 as required by the Act. Results of the referendum were announced in a nationally distributed press release August 2, 1991.

The Order as amended (56 FR 31289–31297) provides for representation on the Cotton Board of persons representing importers of cotton and cotton-containing products subject to assessment. The amended Order also provides that the initial importer representation on the Cotton Board shall be four members.

The Cotton Board was created pursuant to authorization contained in the Cotton Research and Promotion Act of 1966. The Board began operations in 1967 collecting Cotton Research and Promotion assessments from domestic cotton producers. Funds collected are used to finance advertising, sales promotions, market development, and research activities. The purpose of such activities is to strengthen cotton's competitive position and to maintain and expand domestic and foreign markets and uses for United States cotton. In addition to collecting

assessments and administering projects, the Board is responsible for reporting compliance issues to USDA and recommending changes to the program to USDA to effectuate the policy of the Act and Order.

The Cotton Board is currently composed of representatives of cotton producers appointed by the Secretary of Agriculture from nominations submitted by eligible cotton producer organizations within each cotton producing state. There are 14 cotton producing areas represented by 20 members on the Board. Each member has an alternate member. All members and their alternates serve terms of three years.

Section 1205.342 of the Order, as amended, provides that any importer organization may make a request for certification of eligibility to participate in nominating members and alternate members to represent cotton importers on the Cotton Board. Such eligibility shall be based, in addition to other available information, upon a factual report submitted by the organization which shall contain information deemed relevant, including the following:

(a) Nature and size of the organization's active membership, proportion of total active membership accounted for by cotton importers and the total amount of cotton imported by the organization's cotton importer members;

(b) The extent to which the cotton importer membership of such organization is represented in setting the organization's policies;

(c) Evidence of stability and permanency of the organization;

(d) Sources from which the organization's operating funds are derived;

(e) Functions of the organization; and

(f) The organization's ability and willingness to further the aims and objectives of the Act.

The primary consideration in determining the eligibility of an organization shall be whether its membership consists of a sufficiently large number of cotton importers who import a relatively significant volume of cotton to reasonably warrant its participation in the nomination of members and alternates for the Cotton Board. Any importer organization found eligible by the Secretary will be certified by the Secretary.

Organizations representing importers of cotton and cotton-containing products seeking certification to participate in making nominations of importer representatives to serve on the Cotton Board should submit their request addressing the criteria listed above to: USDA/AMS/Cotton Division, room 2641–S, P.O. Box 96456, Washington, DC 20090–6456, Attn: Craig Shackelford.

Organizations that receive USDA certification to participate in nominating persons to serve on the Cotton Board will be notified of their eligibility and of the time and location of a caucus of certified importer organizations. Such caucus will be for the purpose of making nominations for members and alternate members of the Cotton Board. Detailed procedures for conducting the nominating caucus will be provided to each certified importer organization in advance of the caucus date.

The information collection requirements referenced in this notice have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB Number 0581–0093.

Authority: 7 U.S.C. 2101–2118.

Dated: December 5, 1991.

Daniel Haley,

Administrator.

[FR Doc. 91–29593 Filed 12–10–91; 8:45 am]

BILLING CODE 3410–02–M

Forest Service

Logging Gulch Timber Sale, Boise National Forest, Boise Co. ID

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) for a timber sale in the French Creek and Logging Gulch drainages of the Idaho City Ranger District, Boise National Forest. The area is approximately 35 miles northeast of Boise, Idaho.

The agency invites written comments and suggestions on the scope of the analysis. The agency hereby gives notice of the environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may aparticipate and contribute to the final decision.

DATES: A public open house meeting for the purpose of describing the proposed action and receiving public input is scheduled for December 17, 1991, 7 p.m., at the Boise National Forest Supervisors Office, 1750 Front Street, Boise, Idaho. Project interdisciplinary team members will be available at this meeting, and will present the proposed action and the analysis schedule. Comments received from this scoring meeting will be incorporated into the analysis process. In addition, a public field trip and planning meeting was held on October 11, 1991, to receive input for implementing the Forest Plan on the project area.

Additional written comments concerning the proposal are encouraged. To be considered in the Draft Environmental Impact Statement (DEIS), comments should be submitted on or before January 10, 1992.

ADDRESSES: Submit written comments to: District Ranger, Idaho City Ranger District, P.O. Box 129, Idaho City, ID. 83631.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and EIS to Terry Padilla, NEPA Coordinator, Idaho City Ranger District, 208–392–6681.

SUPPLEMENTARY INFORMATION: The purpose of the proposed action is to implement the Boise National Forest Land and Resource Management Plan by increasing the growth and yield of timber stands and by managing access within the project area. To meet the objectives of the Plan, the Forest is proposing to (1) Harvest approximately 8 million board feet of green timber by helicopter, skyline, and tractor on 1,471 acres of suitable timberland, (2) construct 5 miles of new road and reconstruct 21 miles of existing roads, (3) reforest approximately 568 acres, (4) precommercially thin 1,600 acre of young trees, and (5) seasonally or permanently close, or obliterate, all roads and trails within the project area. The project area is located approximately 8 miles southeast of Idaho City, Idaho (within T. 4–6 N., R. 5–6 E., Boise Meridian, Boise County, Idaho). Approximately 8,900 acres (60%) of the project area is located within the Breadwinner Inventoried Roadless Area (IRA).

Alternatives to the proposal will consider (1) the amount of inventoried roadless areas that is harvested, (2) the miles of road construction/reconstruction, (3) the proportion of helicopter, skyline, and tractor harvest methods, and (4) the degree of access management restrictions. A No Action (the project will not take place) alternative will also be considered in the analysis.

As lead agency, the Forest Service will analyze and document direct, indirect and cumulative environmental effects of the range of alternatives. Each alternative will include mitigation measures and monitoring requirements.

The EIS will tier to the Boise National Land and Resource Management (Forest Plan) FEIS (1990) which has specified

goals, objectives, desired future conditions, management area direction and standards for the project area. The project area is located in the Rabbit Creek/North Fork Boise Management area. Direction for this area emphasizes the protection of visually sensitive areas and elk and bald eagle winter range, and intensified timber and range activities on suitable areas.

Preliminary issues for the proposal that have been identified to date include the following:

1. Elk security may be diminished by increased human access.
2. Timber harvest may alter visual quality and affect the undeveloped character of the Breadwinner IRA
3. Road construction and harvest activities may result in increased stream sedimentation in the North Fork and Middle Fork Boise River.
4. High road building and/or harvest costs may result in a below cost timber sale.
5. Existing access within the project area may be denied by road closure.

The scoping process for this project is intended to further define these and other preliminary issues.

Federal, State and local agencies, potential purchasers, and other organizations and individuals who may be interested in or affected by the decision are invited to participate in the scoping process. This process includes (1) Identifying significant issues, (2) determining potential cooperating agencies, and (3) identifying groups or individuals interested or affected by the decision.

The analysis is expected to take approximately five months. The draft environmental impact statement (DEIS) is scheduled to be completed and available for public review in May, 1992. The final environmental impact statement and Record of Decision are scheduled to be completed by August, 1992.

Kathleen M. Lucich, District Ranger, Idaho City Ranger District, Boise National forest, is the responsible official.

The comment period on the DEIS will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the Federal Register.

It is very important that those interested in the proposed action participate at that time. To be the most helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental policy Act at 40 CFR 1503.3).

In addition, Federal court decisions have established that reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v *NRDC*, 435 U.S. 519, 553 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until completion of the final environmental impact statement. *City of Angoon* v. *Hodel*, (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to insure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS.

Dated: December 4, 1991.

Kathleen M. Lucich,

District Ranger, Idaho City Ranger District, Boise National Forest.

[FR Doc. 91-29499 Filed 12-10-91; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.
Title: Report of Building or Zoning Permits Issued and Local Public Construction.
Form Number(s): C-404.
Agency Approval Number: 0607-0094.
Type of Request: Extension of a currently approved collection.
Burden: 30,795.
Number of Respondents: 9,000 monthly; 9,100 annually.
Avg Hours Per Response: 15 minutes monthly; 25 minutes annually.
Needs and Uses: This survey collects data on new construction authorized from a sample of state and local permit issuing officials. From this survey we prepare monthly estimates and annual totals of the number and value of residential buildings and housing units, nonhousekeeping residential buildings (hotels and motels), nonresidential construction, and demolitions authorized by building permits. Policymakers, planners, and businessmen and women use these data to formulate economic policy, control growth, plan for local services, and develop production and marketing plans.
Affected Public: State or local governments.
Frequency: Monthly; Annually.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Maria Gonzalez, 395-7313.

Agency: Bureau of the Census.
Title: Survey of Income and Program Participation - 1990 Panel Wave 8.
Form Number(s): SIPP-10800, SIPP-10803, SIPP-10805.
Agency Approval Number: 0607-0670.
Type of Request: Revision of a currently approved collection.
Burden: 67,725.
Number of Respondents: 45,150.
Avg Hours Per Response: 1/2 hour.
Needs and Uses: The Survey of Income and Program Participation (SIPP) is designed as a continuing series of national panels of interviewed households which are introduced annually with each panel having a duration of about 2 1/2 years in the survey. The survey is molded around a central "core" of labor force and income questions that will remain fixed throughout the life of a panel. The core is periodically supplemented with questions designed to answer specific needs. These supplemental questions are included with the core and are referred to as "topical modules." The topical modules for the 1990 Panel Wave 8, collectively called the "Annual Round-up," are identical to the topical modules for the 1991 Panel Wave 5. The individual components are (1) Annual Income and Retirement Accounts, (2) Taxes, and (3) School Enrollment and Financing. Wave 8 interviews will be conducted from June-September 1992.
Affected Public: Individuals or households.
Frequency: Twice during the panel.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Maria Gonzalez, 395-7313.

Agency: Bureau of the Census.
Title: Apparel.
Form Number(s): MQ23A
Agency Approval Number: 0607-0560.
Type of Request: Extension of the expiration date of a currently approved collection.
Burden: 6,727 hours.
Number of Respondents: 3,175.
Avg Hours Per Response: 53 minutes.
Needs and Uses: The domestic apparel industry is provided some protection from imports through bilateral trade agreements. The Multifiber Arrangement (MFA) provides

the legal framework for the regulation of trade. The Committee for the Implementation of Textile Agreements (CITA) negotiates bilateral trade agreements and determines whether and when to request consultations with an exporting country to avoid market disruptions in the United States. The MFA requires that requests for consultations be accompanied by a factual statement of market disruption prepared by the Office of Textiles and Apparel (OTEXA). Quarterly Census Bureau production data from this survey provide the detailed information needed by CITA and OTEXA to meet this requirement.

Affected Public: Businesses or other for-profit institutions.

Frequency: Quarterly and annual.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, 395-7313.

Copies of the above information collection proposals can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 377-3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: December 5, 1991.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 91-29569 Filed 12-10-91; 8:45 am]

BILLING CODE 3510-0709F

International Trade Administration

[A-475-703]

Initiation of Anti-Circumvention Inquiry on Antidumping Duty Order on Granular Polytetraflouroethylene Resin From Italy

AGENCY: Import Administration/ International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of Anti-circumvention inquiry.

SUMMARY: On the basis of an allegation filed with the Department of Commerce, we are initiating an anti-circumvention inquiry to determine whether the actions of one Italian producer of polytetraflouroethylene and its U.S. subsidiary constitute circumvention of the antidumping duty order on granular polytetraflouroethylene resin from Italy.

EFFECTIVE DATE: November 21, 1991.

FOR FURTHER INFORMATION CONTACT: David S. Levy or Melissa G. Skinner, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC; telephone: (202) 377-4851.

SUPPLEMENTARY INFORMATION:

Background

On October 15, 1991, E.I. Du Pont de Nemours & Company, Inc. (Du Pont), requested that the Department of Commerce (the Department) conduct an anti-circumvention inquiry on the antidumping duty order on granular polytetraflouroethylene (PTFE) resin from Italy (53 FR 33163, August 30, 1988), in accordance with section 781(a) of the Omnibus Trade and Competitiveness Act of 1988. Du Pont alleges that an Italian producer of PTFE and its U.S. subsidiary are circumventing this order by importing PTFE raw polymer, a product currently not subject to antidumping duties, from Italy into the United States, where it is processed into granular PTFE resin, which is covered by the order.

Initiation of Anti-circumvention Proceeding

Section 781(a) of the Tariff Act of 1930, as amended (the Tariff Act), allows the Department, after taking into consideration any advice from the U.S. International Trade Commission, to include a product within the scope of an existing antidumping duty order if the product sold in the United States is of the same class or kind as the merchandise that is the subject of the antidumping duty order, the product sold in the United States is completed or assembled in the United States from parts or components producted in the foreign country with respect to which the antidumping duty order applies, and the difference between the value of the product sold in the United States and the imported parts or components from the country with respect to which the antidumping duty order applies is small.

In reaching a determination on whether to include the product within the scope of an existing antidumping duty order, section 781(a)(2) of the Tariff Act directs the Department to consider such factors as (1) the pattern of trade, (2) whether the manufacturer or exporter is related to the entity and assembled or completed the merchandise sold in the United States, and (3) whether imports of the parts or components from the country with respect to which the antidumping duty order applies have increased after issuance of that order.

We intend to complete this inquiry according to the following schedule, unless extraordinary complications arise:

Initial Request for Information.	December 2, 1991
Response	December 16, 1991.
Anti-circumvention Questionnaire.	December 23, 1991.
Response	January 22, 1992.
Preliminary Determination.	April 1, 1992.
Hearing	April 19, 1992.
Final Determination	May 12, 1992.

The Department will not suspend liquidation at this time. However, the Department will instruct the U.S. Customs Service to suspend liquidation in the event of an affirmative preliminary determination of circumvention.

This notice is published in accordance with section 781(a) of the Tariff Act (19 U.S.C. 1677j(a)), and § 353.29(e) of the Commerce Regulations (19 CFR 353.29(e))(1991).

Dated: November 22, 1991.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-29612 Filed 12-10-91; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Caribbean Fishery Management Council (Council's) Administrative Committee, Habitat Advisory Panels, Advisory Panel, and Coral Fishery Management Plan (FMP) Committee, will hold separate public meetings on December 10-13, 1991, from 10 a.m., until 4 p.m., at the Pierre Hotel, Santurce, Puerto Rico.

The Habitat Advisory Panels will meet on December 10, the Advisory Panel on December 11 and the Coral FMP Committee on December 12, to discuss issues related to the development of the Coral FMP.

The Administrative Committee will meet on December 13 from 9 a.m., to 12 noon, to discuss issues related to the Council's administrative operations.

The meetings will be conducted primarily in English; however, there will be simultaneous English/Spanish translation for the Advisory Panel and Coral FMP Committee meetings. For more information, contact the Caribbean

Fishery Management Council, Banco de Ponce Building, suite 1108, Hato Rey, Puerto Rico 00918–2577; telephone: (809) 766–5926.

Dated: December 5, 1991.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91–29563 Filed 12–10–91; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Egypt

December 6, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: December 13, 1991.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–5810. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing, carryforward and carryover. The adjustment to Category 301 reflects a new base limit for the 1991 agreement year which was agreed to in a Memorandum of Understanding dated October 25, 1991 between the Governments of the United States and Egypt.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Also see 55 FR 49936, published on December 3, 1990.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 6, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 27, 1990, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Egypt and exported during the period which began on January 1, 1991 and extends through December 31, 1991.

Effective on December 13, 1991, you are directed to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the Arab Republic of Egypt:

Category	Twelve-month restraint limit [1]
Sublevels in Group I	
227	10,583,993 square meters.
313	32,934,797 square meters.
Level not in a group	
300/301	7,012,120 kilograms of which not more than 1,348,175 kilograms shall be in Category 301.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1990.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91–29619 Filed 12–10–91; 8:45 am]

BILLING CODE 3510–DR–F

Increase of a Guaranteed Access Level for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Jamaica

December 5, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a guaranteed access level.

EFFECTIVE DATE: December 6, 1991.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this level, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The United States Government agreed to increase the current guaranteed access level for Categories 352/652 for 1991.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Also see 55 FR 49937, published on December 3, 1990.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 5, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 27, 1990, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Jamaica and exported during the twelve-month period which began on January 1, 1991 and extends through December 31, 1991.

Effective on December 6, 1991, you are directed to amend further the November 27, 1990 directive to increase to 3,700,000 dozen the current guaranteed access level for Categories 352/652, as provided under the terms of the current bilateral textile agreement between the Governments of the United States and Jamaica.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-29570 Filed 12-10-91; 8:45 am]

BILLING CODE 3510-DR-F

COMPETITIVENESS POLICY COUNCIL

Competitiveness Policy Council; Meeting

ACTION: Revised notice of forthcoming meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the Competitiveness Policy Council announces several forthcoming meetings.

DATES: December 12, 1991, 8:30 a.m. to 5:30 p.m.

ADDRESSES: Room 4830, US Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Howard Rosen, Competitiveness Policy Council, suite 650, 11 Dupont Circle, NW., Washington, DC 20036, (202) 387-9017.

SUPPLEMENTARY INFORMATION: The Competitiveness Policy Council (CPC) was established by the Competitiveness Policy Council Act, as contained in the Trade and Competitiveness Act of 1988, Public Law 100-418, sections 5201-5210, as amended by the Customs and Trade Act of 1990, Public Law 101-382, section 133. The CPC is composed of 12 members and is to advise the President and Congress on matters concerning the competitiveness of the US economy. The Council will hold in-depth discussions of topics identified at its September 6 meeting as being critical to improving US competitiveness. The Council's chairman, Dr. C. Fred Bergsten, will chair the meeting.

The meeting will be open to the public subject to the seating capacity of the room. Visitors will be requested to sign a visitor's register.

Type of Meeting: Open.

Agenda: The Chairman will open the meeting with a report on developments related to the activities of the Council. This report will be followed by a discussion of two of the six issues identified at the September 6 meeting as being most critical to improving US competitiveness: Technology and international trade. The members will also begin preparation for the Council's initial annual report due to Congress and the Administration on March 1, 1992.

Dated: December 9, 1991.

C. Fred Bergsten,

Chairman, Competitiveness Policy Council.

[FR Doc. 91-29703 Filed 12-9-91; 11:56 am]

BILLING CODE 6820-11-M

DEPARTMENT OF ENERGY

Financial Assistance Award Intent To Award a Cooperative Agreement to the League of Women Voters Education Fund

AGENCY: Department of Energy.

ACTION: Notice of non-competitive financial assistance award.

SUMMARY: The U.S. Department of Energy (DOE) announces that pursuant to 10 CFR 600.6(a)(5), it is making a financial assistance award based on an application satisfying the criteria of 10 CFR 600.7(b)(2)(i)(C) under Cooperative Agreement Number DE-FC01-92RW00245 to The League of Women Voters Education Fund to update the Nuclear Waste Primer and conduct public information seminars.

SCOPE: The objective of this Cooperative Agreement will be to update and revise the Nuclear Waste Primer which is a publication of The League of Women Voters Education Fund, and to conduct public seminars to explain the nature of high level radioactive waste and the status of the DOE Office of Civilian Radioactive Waste Management's implementation of the Nuclear Waste Policy Act of 1982, as amended, and other DOE radioactive waste and environmental restoration programs by the DOE Office of Environmental Restoration and Waste Management.

BASIS FOR NON-COMPETITIVE AWARD: DOE is awarding this Cooperative Agreement on a non-competitive basis. The League of Women Voters Education Fund is the publisher of the Nuclear Waste Primer, has experience with technical and complex nuclear waste issues, and has unique access to the League's membership that enables it to promote public education and involvement in the nuclear waste program.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Placement and Administration, Attn: Nick Graham, PR-322.1, 1000 Independence Ave., SW., Washington, DC 20585.

Scott Sheffield,

Acting Director, Operations Division "B", Office of Placement and Administration.

[FR Doc. 91-29618 Filed 12-10-91; 8:45 am]

BILLING CODE 6450-01-M

Savannah River Field Office (SR) Financial Assistance Award; Intent To Award a Noncompetitive Grant

AGENCY: Department of Energy.

ACTION: Notice of noncompetitive award of grant.

SUMMARY: The DOE announces that it plans to award a renewal research grant to South Carolina State College (SCSC) Educational Foundation, 300 College Avenue, NE., Orangeburg, SC 29117, for the conduct of research entitled, "Physiological Ecology of Savannah River Site (SRS) Carolina Bay Phytoplankton Communities: Effects of Nutrient Changes and CO_2 Sources." The grant will be awarded for a two-year period at a DOE funding level of $191,370. Pursuant to § 600.7(b)(2)(i)(A) of the Department of Energy Assistance Regulations (10 CFR part 600), DOE has determined that the activity to be funded is necessary to the satisfactory completion of an activity presently being funded by DOE and eligibility for this grant award shall be limited to SCSC Educational Foundation.

PROCUREMENT REQUEST NUMBER: 09-92SR18049.001.

PROJECT SCOPE: During the past two years, SCSC has conducted phytoplankton research in Carolina Bay ecosystems on the SRS. The renewal should provide a better understanding of what effect nutrient enrichment (fertilizing during wetlands restoration) has on phytoplankton communities; the relative use of atmospheric CO_2 versus CO_2 derived from in-situ decomposition by phytoplankton in Carolina bays; and also which effect does the extended hydroperiod for Carolina bays during 1991 have on phytoplankton community dynamics.

SCSC is a Historically Black College or University (HBCU) and falls within the meaning and intent of Executive Orders 12320 and 12677 pertaining to Government assistance to HBCUs. The participation of HBCUs in federally supported research is relatively limited. In order to overcome some of these limitations, Executive Orders directed federal agencies to increase the participation of HBCUs in federally-

funded programs and to strengthen their capabilities to provide quality education. This award represents an effort to strengthen the HBCU community.

DOE has determined that this award to SCSC on a noncompetitive basis is appropriate.

FOR FURTHER INFORMATION CONTACT: Elizabeth T. Martin, Contracts Management Branch, U.S. Department of Energy, Savannah River Field Office, P.O. Box A, Aiken, SC 29802, Telephone: (803) 725–2191.

Issued in Aiken, South Carolina, on: November 22, 1991.

Peter M. Hekman, Jr.,

Manager, DOE Savannah River Field Office, Head of Contracting Activity.

[FR Doc. 91–29623 Filed 12–10–91; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 2368–001; Maine]

Maine Public Service Company; Availability of Final Environmental Assessment

December 4, 1991.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing reviewed the application for minor license for the Squa Pan Hydroelectric Project, located on the Squa Pan Stream in Aroostook County, near Masardis, Maine, and prepared a Draft Environmental Assessment (DEA) for the project on May 29, 1991. The DEA was noticed on May 30, 1991, and comments were received from Federal and state agencies. Subsequently, these comments were addressed in a Final Environmental Assessment (FEA) for the project on October 31, 1991. In the FAA, the Commission's staff analyzed the potential environmental impacts of the project and concluded that approval of the project, with appropriate enhancement measures, would not constitute a major Federal actions significantly affecting the quality of the human environment.

Copies of the FEA are available for review in the Public Reference Branch, room 3308, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 91–29503 Filed 12–10–91; 8:45 am]

BILLING CODE 6717–01–M

[San Miguel Project FERC No. 9248–000]

Town of Telluride, Availability of Environmental Assessment

December 5, 1991.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for major license for the proposed San Miguel Hydroelectric Project, located on the San Miguel River in San Miguel County, near Telluride, Colorado, and has prepared a joint environmental assessment (EA) with the Forest Service (FS) for the proposed project. In the EA, the Commission and FS analyzes the potential environmental impacts of the proposed project and concludes that approval of the proposed project, with appropriate mitigative measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3104, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 91–29528 Filed 12–10–91; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 10705–001–NY]

Alpyn Creek Development Corp.; Surrender of Preliminary Permit

December 4, 1991.

Take notice that Alpyn Creek Development Corporation, permittee for the Huntersfield Project, located on Schoharie Creek and Schoharie Reservoir in Greene and Delaware Counties, New York, has requested that its preliminary permit be terminated. The preliminary permit was issued on December 21, 1989, and would have expired on November 30, 1992.

The permittee filed the request on November 21, 1991, and the preliminary permit for Project No. 10705 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 91–29504 Filed 12–10–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–46–000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

December 4, 1991.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on November 29, 1991, tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1, as set forth in the tariff sheets:

Proposed to be effective January 1, 1991

Primary Sheets

Sub 10 Rev Sheet No. 21
Sub 10 Rev Sheet No. 22
Sub 6 Rev Sheet No. 25
Sub 10 Rev Sheet No. 26
Sub 10 Rev Sheet No. 27
Sub 10 Rev Sheet No. 28
Rev Sheet No. 29

Alternate Sheets

Alt Sub 10 Rev Sheet No. 21
Alt Sub 10 Rev Sheet No. 22
Alt Sub 6 Rev Sheet No. 25
Alt Sub 10 Rev Sheet No. 26
Alt Sub 10 Rev Sheet No. 27
Alt Sub 10 Rev Sheet No. 28
Alt 10 Rev Sheet No. 29

Algonquin states that it is herein requesting authority to recover Gas Supply Inventory Reservation Charges ("GSIR Charges") projected to be paid, during the contract year November 1, 1991 through October 31, 1992 to Texas Eastern Transmission Corporation ("Texas Eastern") for service under Texas Eastern's Rate Schedules CD–1 and CD–2, on an annual basis. Algonquin states that this request is compelled by the extraordinary distortions that the current methodology for recovering GSIR Charges has had on Algonquin's recent Purchased Gas Adjustment ("PGA") filings and the increasing distortions projected to occur in the upcoming year.

Alogonquin states that as an alternative to the current mechanism, it is herein proposing to recover the projected GSIR Charges on an annual basis. Algonquin currently estimates that it will incur approximately $23.2 million in GSIR Charges from Texas Eastern during the current contract year

ending October 31, 1992. The projected GSIR Charges are proposed to be recovered, initially, over the ten month period beginning January 1, 1992. The annual rate effect for the initial period will be $0.5823 per MMBtu. After the initial ten month period, Algonquin proposes to recover on an annual basis any future projected GSIR Charges over a twelve month period beginning each November 1, all as more fully set forth in Algonquins's instant filing.

Algonquin notes that copies of this filing were served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29505 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-8-20-000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

December 5, 1991.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on November 27, 1991, tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1, as set forth in the revised tariff sheets:

Volume No. 1

7 Rev Sheet No. 41
7 Rev Sheet No. 42
2 Rev Sheet No. 43
2 Rev Sheet No. 61
2 Rev Sheet No. 62
3 Rev Sheet No. 64
3 Rev Sheet No. 66
1 Rev Sheet No. 67
2 Rev Sheet No. 124

Volume No. 2

1 Rev Sheet No. 334

In addition, Algonquin is filing the following tariff sheets which also incorporate the 1992 GRI adjustment:

Volume No. 1

Primary Tariff Sheets

10 Rev Sheet No. 21
10 Rev Sheet No. 22
6 Rev Sheet No. 25
10 Rev Sheet No. 26
10 Rev Sheet No. 27
10 Rev Sheet No. 28

Alternate Tariff Sheets

Alt 10 Rev Sheet No. 21
Alt 10 Rev Sheet No. 22
Alt 6 Rev Sheet No. 25
Alt 10 Rev Sheet No. 26
Alt 10 Rev Sheet No. 27
Alt 10 Rev Sheet No. 28

Algonquin states that these revised tariff sheets are being submitted to incorporate the Gas Research Institute's ("GRI") Adjustment for the calendar year 1992 as approved by the Commission in Opinion No. 365 in Docket No. RP92-170-000, issued October 1, 1991 (57 FERC ¶ 61,010). The instant filing is being made pursuant to Section 28 of the General Terms and Conditions of Algonquin's FERC Gas Tariff, Third Revised Volume No. 1.

The proposed effective date of the above tariff sheets is January 1, 1992.

Algonquin also states that the filing of the primary and alternate tariff sheets as listed above is necessary to reflect the fact that Algonquin's upstream supplier CNG Transmission Corporation ("CNG") filed primary and alternate tariff sheets in its quarterly PGA adjustment in Docket No. TQ92-1-22-000 *et al.* on October 31, 1991. If the Commission approves the primary rates filed in CNG's Docket No. TQ92-1-22-000 *et al.* Algonquin proposes to place the primary tariff sheets into effect as of January 1, 1992. Otherwise, Algonquin proposes to place the alternate sheets into effect as of this date. In either case the effect on Algonquin's GRI surcharge is the same; the only difference between the sheets is in the CNG gas costs they reflect.

Algonquin further states that the effect of the change in the GRI Adjustment is to increase all commodity and commodity handling charges in the listed tariff sheets by $0.0005.

Algonquin notes that copies of this filing were served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29529 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-45-000]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

December 4, 1991.

Take notice that on November 29, 1991, pursuant to section 4 of the Natural Gas Act and part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations thereunder, ANR Pipeline Company ("ANR") tendered for filing with the Commission Eighth Revised Sheet No. 570 of its FERC Gas Tariff, Original Volume No. 2 with a proposed effective date of January 1, 1992.

Eighth Revised Sheet No. 570 reflects an increase from $248,279 to $290,994 in the monthly charge paid by the High Island Offshore System ("HIOS") to ANR pursuant Rate Schedule X-64 under Original Volume No. 2 of ANR's FERC Gas Tariff. Rate Schedule X-64 is a Service Agreement dated August 4, 1977 between ANR and HIOS. Under the terms of this Service Agreement, which was approved by Commission Order issued July 6, 1978 at Docket No. CP78-134, ANR provides certain gas measurement, dehydration and related services for HIOS for the Grand Chenier, Louisiana facility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 395.214). All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party to the proceeding must file a motion to intervene. Copies of this

filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29506 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-2-48-000]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

December 5, 1991.

Take notice that ANR Pipeline Company ("ANR") on November 27, 1991, tendered for filing as part of its FERC Gas Tariff, the following tariff sheets to be effective January 1, 1992:

Original Volume No. 1
Fifty-Second Revised Sheet No. 18
Original Volume No. 1-A
Eleventh Revised Sheet No. 6
Original Volume No. 3
Fifth Revised Sheet No. 5

ANR states that the above referenced tariff sheets are being filed to adjust its Gas Research Institute ("GRI") surcharge. The revised tariff sheets reflect a GRI surcharge of $0.0147.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29530 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-3-31-000]

Arkla Energy Resources; Filing of Revised Tariff Sheets Reflecting Quarterly PGA Adjustment

December 5, 1991.

Take notice that on December 3, 1991, Arkla Energy Resources (AER), a division of Arkla, Inc., tendered for filing six copies of the following revised tariff sheets to become effective January 1, 1992:

Rate Schedule No. X-26
Original Volume No. 3
Sixteenth Revised Sheet No. 185.1
Rate Schedule No. G-2
Second Revised Volume No. 1
Eighth Revised Sheet No. 11
Rate Schedule No. CD
Second Revised Volume No. 1
Eighth Revised Sheet No. 16

These tariff sheets reflect AER's third quarterly PGA filing made subsequent to its annual PGA effective April 1, 1991 under the Commission's Order Nos. 483 and 483-A.

The proposed changes reflect a decrease in AER's system cost of $203,787 and would decrease its revenue from jurisdictional sales and service by $1,332 for the PGA period of January, February and March 1992 as adjusted.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29531 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-3-22-000]

CNG Transmission Corporation; Proposed Changes in FERC Gas Tariff

December 5, 1991.

Take notice that CNG Transmission Corporation ("CNG"), on November 27, 1991, under section 4 of the Natural Gas Act, part 154 and § 2.104 of the Commission's regulations, provisions of CNG's Settlement in Docket No. RP88-217, *et al.*, approved by the Commission order issued October 6, 1989, and § 12.10 of the General Terms and Conditions of CNG's FERC Gas Tariff, filed six copies of the following revised sheets for its FERC Gas Tariff, First Revised Volume No. 1:

Fifteenth Revised Sheet No. 31
Eighth Revised Sheet No. 32
Tenth Revised Sheet No. 34
Seventh Revised Sheet No. 35
Alternate Fifteenth Revised Sheet No. 31
Alternate Tenth Revised Sheet No. 34

The tariff sheets are proposed to become effective January 1, 1991. CNG states that the purpose of this filing is to update CNG's Gas Research Institute commodity surcharge, to reconcile the interest component of CNG's take-or-pay direct billed and commodity surcharge amounts, and to provide reconciliation supporting the principal component of CNG's direct take-or-pay commodity surcharge through October 1991.

Copies of this filing were served upon CNG's customers as well as interested parties.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 and 385.211. All motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29532 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-1-32-000]

Colorado Interstate Gas Company; Filing

December 5, 1991.

Take notice that on November 27, 1991 Colorado Interstate Gas Company ("CIG") submitted for filing an original and five copies of Substitute Third Revised Sheet Nos. 7.1 through 8.2. CIG requests that these proposed tariff sheets be made effective on January 1, 1992.

The instant purchased gas adjustment ("PGA") filing is made pursuant to § 154.308 of the Commission's Regulations implementing Order 483, *et seq.* The tariff sheets reflect a 0.03 cent/Mcf increase in the commodity rate for the G-1, P-1, SG-1, H-1, F-1 and PS-1 Rate Schedules. There is no change in the Demand-1 or Demand-2 rates because currently, CIG does not incur "as billed" charges from its suppliers.

The proposed rates also incorporate the 0.05 cent/Mcf increase in the GRI charge to 1.51 cents effective January 1, 1991, that CIG filed with the Commission on November 15, 1991 in Docket No. TM92-1-32-000.

CIG states that copies of this filing are being served on all jurisdictional customers and interested state commissions, and are otherwise available for public inspection at CIG's offices in Colorado Springs, Colorado.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29533 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-44-000]

Colorado Interstate Gas Co.; Proposed Changes in FERC Gas Tariff

December 4, 1991.

Take notice that Colorado Interstate Gas Company ("CIG"), on November 29, 1991, tendered for filing the following tariff sheets to revise its FERC Gas Tariff, Original Volume No. 1:

Third Revised Sheet No. 61G5
Third Revised Sheet No. 61G6
Third Revised Sheet No. 61G7
Second Revised Sheet No. 61G7-A
Substitute Original Sheet No. 61G11.2

CIG states that the above-reference tariff sheets are being filed to implement recovery of Buyout-Buydown costs incurred by CIG as a result of the settlement of contract claims in conformance with the procedures reflected in the Commission's Order Nos. 528 and 528-A.

CIG states that, pursuant to the provisions of Order Nos. 528 and 528-A, CIG will allocate its Buyout-Buydown costs between its jurisdictional and nonjurisdictional customers, absorb 50 percent of the jurisdictional portion of the Buyout-Buydown costs, and recover 50 percent of such costs through fixed surcharges applicable to its jurisdictional firm sales customers. CIG states that the total and the jurisdictional portion of the Buyout-Buydown costs related to this filing are $5,372,213 and $5,349,263, respectively. Therefore, CIG is proposing to recover $2,674,631 from its affected jurisdictional firm sales customers.

CIG has requested that the Commission accept this filing, to become effective December 1, 1991.

CIG states that copies of the filing were served upon all of its affected firm sales customers and interested State Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29507 Filed 12-10-91; 8:45 am]

BILLING CODE 6711-07-M

[Docket No. TM92-6-21-000]

Columbia Gas Transmission Corporation; Proposed Changes in FERC Gas Tariff

December 5, 1991.

Take notice that Columbia Gas Transmission Corporation (Columbia) on November 27, 1991, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, with the proposed effective date of January 1, 1992:

3rd Rev Third Revised Sheet No. 26.1
3rd Rev Third Revised Sheet No. 26A.1
2nd Rev Eleventh Revised Sheet No. 26C
2nd Rev Second Revised Sheet No. 26D

Columbia states that the aforementioned tariff sheets are being filed to reflect an increase in the Gas Research Institute (GRI) funding unit to 1.47¢ per Dth as authorized by Opinion No. 365, issued by the Federal Energy Regulatory Commission (Commission) on October 1, 1991, in Docket No. RP91-170-000, *et al.* Ordering Paragraph (B) of such Opinion approves the GRI funding requirement for the year 1992 and provides that members of GRI shall collect from their applicable customers a general R&D funding unit of 1.47¢ per Dth during 1992 for payment to GRI.

Copies of this filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available to public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29534 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-2-70-000]

Columbia Gulf Transmission Co.; Proposed Changes in FERC Gas Tariff

December 5, 1991.

Take notice that Columbia Gulf Transmission Company (Columbia Gulf), on November 27, 1991, tendered for filing the following revised tariff sheet to its FERC Gas Tariff, First Revised Volume No. 1, with the proposed effective date of January 1, 1992:

Sixth Revised Sheet No. 21

This revised tariff sheet is submitted to reflect the Gas Research Institute (GRI) funding unit of 1.47¢ per Dth as authorized by Opinion No. 365 issued by the Federal Energy Regulatory Commission (Commission) on October 1, 1991 in Docket No. RP91-170-000. Ordering Paragraph (B) of the Commission's Opinion approves the GRI funding requirement for the year 1992 and provides that members of GRI shall collect from their applicable customers, a general R&D funding unit of 1.47¢ per Dth during 1992 for payment to GRI.

Copies of this filing was served upon all Columbia Gulf's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Columbia Gulf's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29535 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP90-111-000 and RP 91-204-000]

East Tennessee Natural Gas Co.; Informal Settlement Conference

December 4, 1991.

Take notice that an informal settlement conference will be convened in this proceeding on December 13, 1991 following the prehearing conference, at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC.

Any party, as defined in 18 CFR 385.102(c), or any participant, as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's Regulations, 18 CFR 385.214 (1991).

For additional information, contact Donald A. Heydt at (202) 208-0740 or Irene E. Szopo at (202) 208-1602.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29508 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TM92-2-33-000]

El Paso Natural Gas Co.; Notice of Tariff Filing

December 4, 1991.

Take notice that on November 27, 1991, El Paso Natural Gas Company ("El Paso") tendered for filing tariff sheets that El Paso states include:

(i) a revision to El Paso's Throughput Surcharge subject to section 22, Take-or-Pay Buyout and Buydown Cost Recovery, contained in the General Terms and Conditions of El Paso's First Revised Volume No. 1-A Tariff; and

(ii) an increase in the Gas Research Institute ("GRI") funding unit adjustment component of El Paso's rates for certain transportation services subject to section 18, Gas Research Institute General Research, Development and Demonstration Funding Unit Adjustment Provision, continued in the General Terms and Conditions of El Paso's First Revised Volume No. 1-A Tariff.

El Paso requests that the tendered tariff sheets be accepted for filing and permitted to become effective January 1, 1992.

El Paso states that in buyout and buydown filings at Docket No. TM92-1-33-000, effective October 1, 1991, and Docket No. RP92-18-000, to be effective December 1, 1991, El Paso stated that it had used throughput levels for purposes of the filing based upon the throughput levels underlying its currently effective rates at Docket No. RP88-44-000, *et al.* In addition, El Paso stated that it would file, with appropriate notice as required by the Commission's Regulations, a Throughput Surcharge rate to reflect the throughput levels underlying the rates at Docket No. RP91-188-000 to be effective upon the date such rates are placed into effect. Accordingly, El Paso states that it is tendering tariff sheets which serve to update the Throughput Surcharge based on the throughput levels underlying El Paso's proposed rates at Docket No. RP91-188-000 which, upon motion, will become effective January 1, 1992. As a result, El Paso states, the Throughput Surcharge has been increased from $0.2303 per dth to $0.2341 per dth.

El Paso respectfully requests all necessary waivers of the Commission's Regulations so as to permit the tendered tariff sheets to supersede counterpart tariff sheets suspended by the Commission in its order issued July 31, 1991 at Docket No. RP91-188-000. El Paso states that before January 1, 1992 it will file its motion to place the Docket No. RP91-188-000 suspended tariff sheets into effect on January 1, 1992. El Paso states that since the proposed Throughput Surcharge is based upon the throughput level underlying the rates at Docket No. RP91-188-000, El Paso has tendered in this filing tariff sheets which supersede the counterpart suspended tariff sheets at Docket No. RP91-188-000. Accordingly, El Paso respectfully requests that the Commission grant all necessary waivers so as to permit the tendered tariff sheets to become effective January 1, 1992 and supersede the counterpart tariff sheets at Docket No. RP91-188-000.

Copies of the filing were served upon all of El Paso's interstate pipeline system transportation customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29509 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-188-004]

El Paso Natural Gas Co.; Notice of Compliance Filing

December 4, 1991.

Take notice that on November 27, 1991, El Paso Natural Gas Company ("El Paso") tendered for filing and acceptance (i) certain tariff sheets contained in El Paso's Second Revised Volume No. 1, First Revised Volume No. 1-A and Third Revised Volume No. 2 FERC Gas Tariffs, and (ii) a study detailing the rate impact of the Wenden expansion on each zone and rate schedule, in compliance with the Federal Energy Regulatory Commission's ("Commission") Order Accepting in Part and Rejecting in Part Compliance Filing" issued November 6, 1991 at Docket No. RP91-188-002 ("Compliance Order") and the Commission's "Order Granting in Part, Denying in Part and Dismissing in Part Requests for Rehearing and Clarification" issued November 21, 1991 at Docket No. RP91-188-001 ("Order on Rehearing").

El Paso states that the Order on Rehearing permits its originally filed rates to go into effect on January 1, 1992; therefore, ordering paragraph (B) of the Commission's Compliance Order requiring El Paso to refile Statements A through M has been satisfied. El Paso states that its original filing of July 1, 1991 in this proceeding proposed rates

based on its cost of service for the twelve month period ending March 31, 1991, as adjusted for known and measurable changes through December 31, 1991, and projected throughput for the twelve month period from January 1, 1992 through December 31, 1992. El Paso also states that the Gas Cost Ceiling Charge ultimately was allowed to be based on a twelve month period ending December 31, 1992, therefore, the Statements A through M originally filed on July 1, 1991 reflect the correct information and El Paso incorporated by reference Statements A through M contained in such filing.

El Paso also states that the Order on Rehearing directs it to refile tariff sheets to reflect El Paso Electric Company's ("EPEC") location in the State of New Mexico in the allocation and rate design and in the application of the resulting rates to EPEC. El Paso states that it tendered tariff sheets to reflect the rates as originally filed with the Commission in this proceeding.

El Paso further states that the Order on Rehearing clarifies that the Commission accepted its settlement provision of a Gas Cost Ceiling Charge rate based on projected WACOG for the year in which the service is made available and further stated that it may refile its tariff sheets regarding this provision as originally filed, consistent with the terms of the Settlement at Docket No. RP88-44-000, *et al.* El Paso states that it tendered tariff sheets to reflect the Gas Cost Ceiling Charge of $1.8949 which is the rate originally filed with the Commission in this proceeding.

El paso also states that it filed a study detailing the rate impact of the Wenden expansion on each zone and rate schedule in compliance with ordering paragraph (C) of the Compliance Order.

Copies of the filing were served upon all parties of record in Docket No. RP91-188-000 and otherwise, upon all interstate pipeline system transportation and sales customers of El Paso and interested state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29510 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-2-24-000]

Equitrans, Inc.; Proposed Change in FERC Gas Tariff

December 5, 1991.

Take notice that Equitrans, Inc. (Equitrans), on November 27, 1991, tendered for filing with the Federal Energy Regulatory Commission (Commission) the following tariff sheets to its FERC Gas tariff, Original Volume Nos. 1 and 3, to become effective January 1, 1992:

Original Volume No. 1

Thirty-Second Revised Sheet No. 10
Tenth Revised Sheet No. 23

Original Volume No. 3

Tenth Revised Sheet No. 4
Tenth Revised Sheet No. 8

As an alternative tariff sheet, Equitrans submits the following to be effective January 1, 1992:

Alternate Thirty-Second Revised Sheet No. 10.

Pursuant to Opinion No. 356 in Docket Nos. RP91-170, *et al.*, RP87-71-005 and RP88-182-005, issued October 1, 1991, the Commission authorized pipeline companies to collect the Gas Research Institute (GRI) funding unit from their customers. The 1992 GRI unit surcharge approved by the Commission is $0.0147 per dekatherm (Dth).

The rates in this filing are based on Equitrans' Quarterly Purchased Gas Adjustment (PGA) filing in Docket No. TQ92-2-24, *et al.*, where Equitrans filed primary and alternate sheets which reflected the pending certificate before the Commission in Docket No. CP92-109-000, to provide firm sales service of up to 50,000 Dth per day of natural gas to Texas Eastern Transmission Corporation during the winter season of November through March.

Pursuant to § 154.51 of the Commission's Regulations, Equitrans requests that the Commission grant any waivers necessary to permit the tariff sheets contained herein to become effective January 1, 1992.

Equitrans states that a copy of its filing has been served upon its purchasers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29536 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-41-000]

Florida Gas Transmission Co.; Proposed Rate Changes in FERC Gas Tariff

December 4, 1991.

Take notice that on November 27, 1991 Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, the following tariff sheets, to be effective January 1, 1992:

Second Revised Volume No. 1

Seventh Revised Twentieth Revised Sheet No. 8
Third Revised Sixth Revised Sheet No. 8A
Third Revised Fifth Revised Sheet No. 8B

Original Volume No. 3

Third Revised Fifth Revised Sheet No. 1039

FGT states that section 25 contains tariff language that establishes a mechanism to permit recovery of transitional costs via a volumetric surcharge included in the TCR Account as of September 30, 1991.

FGT states that copies of its filing are being mailed to its jurisdictional sales customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29511 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-2-34-000]

Florida Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

December 5, 1991.

Take notice that on November 27, 1991 Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, the following tariff sheets:

Second Revised Volume No. 1

Sixth Revised Twentieth Revised Sheet No. 8
Second Revised Sixth Revised Sheet No. 8A
Second Revised Fifth Revised Sheet No. 8B

Original Volume No. 3

Second Revised Fifth Revised Sheet No. 1039

FGT states that the above-referenced tariff sheets are being filed pursuant to section 19.1 of The General Terms and Conditions of FGT's FERC Gas Tariff to reflect a Gas Research Institute (GRI) rate of 1.47¢ per dekatherm (.147¢ per therm) effective January 1, 1992. In Opinion No. 365 issued on October 1, 1991 in Docket No. RP91-170-000 *et al.* the Federal Energy Regulatory Commission (Commission) amended and approved the GRI 1992 Research, Development and Demonstration Program and Five-Year Plan for 1992-1996, and approved a R&D funding unit of 1.47¢ per dekatherm and authorized jurisdictional members to GRI to include this funding unit in their rates effective January 1, 1992.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 311 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211).

All such protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter.

Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29537 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-5-4-000]

Granite State Gas Transmission, Inc.; Proposed Change in Rates

December 5, 1991.

Take notice that on November 29, 1991, Granite State Gas Transmission, Inc. (Granite State), 300 Friberg Parkway, Westborough, Massachusetts 01581-5039, tendered for filing with the Commission First Revised Eighth Revised Sixth Revised Sheet No. 21 in its FERC Gas Tariff, Second Revised Volume No. 1, containing changes in rates for effectiveness on December 1, 1991.

According to Granite State, this filing is an out-of-cycle purchased gas cost adjustment based on revised projected gas costs and sales for the balance of the fourth quarter of 1991. It is stated that Granite State's costs for projected purchases of spot-market supplies have risen sharply from $2.42 per MMBtu to $3.50 per MMBtu since its last purchased gas cost adjustment. Cranite State states that such purchases will comprise approximately 63 percent of its system supply during the balance of the fourth quarter. Also, Granite State further states that the filing reflects purchases of firm supplies from Algonquin Gas Transmission Company under Rate Schedules F-2 and F-3 not included in the costs for gas in current rates.

It is stated that the proposed rate changes are applicable to Granite State's jurisdictional services rendered to Bay State Gas Company and Northern Utilities, Inc. Granite State further states that copies of its filing were served upon its customers and the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29538 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-50-000]

High Island Offshore System; Proposed Changes in FERC Gas Tariff

December 4, 1991.

Take notice that on November 29, 1991 High Island Offshore System (HIOS) filed, pursuant to section 4 of the Natural Gas Act, for a general increase in its transportation rates, proposing an effective date of January 1, 1992.

According to the filing, HIOS attributes the need for an increase in rates to increases in operating and maintenance expenses and other increases in its cost of services as well as declining levels of transportation volumes on its system.

HIOS states that, based upon volumes transported during the base period, as adjusted, the proposed rates will result in an increase in annual revenues to HIOS of approximately $16.2 million when compared to the annual revenues generated by currently effective rates.

HIOS requests the removal of the 100% load factor rate design condition for its commodity rate, which was imposed in Docket Nos. CP75-104, *et al.*

HIOS also requests that its Experimental Capacity Brokering Program be extended for one year, from January 1, 1992 until January 1, 1993 and, upon notice, from year to year thereafter.

Further HIOS requests that the filing also be accepted as in compliance with the biennial rate review condition in HIOS' certificate.

HIOS states the copies of the filing have been served on all affected shippers.

Any person desiring to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 and 214 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211, 385.214. All protests and motions to intervene should be filed on or before December 11, 1991. Protests will be

considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29512 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP92-208-000]

K N Front Range Gathering Co.; Petition for a Declaratory Order

December 4, 1991.

Take notice that on November 22, 1991, K N Front Range Gathering Company (Front Range), Post Office Box 281304, Lakewood, Colorado 80228-8304, filed in Docket No. CP92-208-000 pursuant to § 385.207 of the Commission's Rules of Practice and Procedure a petition for declaratory order ruling that Front Range's acquisition, ownership and operation of certain natural gas gathering facilities, known as the Wattenberg System and currently owned by Panhandle Eastern Pipe Line Company (Panhandle), would not subject Front Range or any portion of its facilities or services to the Commission's jurisdiction under the Natural Gas Act (NGA), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Front Range states that in the Amerada Hess blanket order, issued September 17, 1990, the Commission determined that certain facilities of the Wattenberg System are jurisdictional and certain facilities are nonjurisdictional. Front Range states that Panhandle is concurrently seeking authorization to abandon the subject facilities (the nonjurisdictional facilities) through the sale of these facilities to Front Range. It is stated that Panhandle is also concurrently seeking authorization to abandon the remainder of the facilities (the jurisdictional facilities) by sale to K N Wattenberg Transmission Limited Liability Company. Front Range explains that upon Panhandle's receipt of Commission authorization to transfer the subject facilities, Front Range would acquire those facilities from Panhandle. It is indicated that the subject facilities are highlighted on a map of the entire Wattenberg System included as Exhibit No. 1 to the application.

Front Range seeks herein a Declaratory Order from the Commission stating that once Front Range purchases the subject facilities, those facilities and all services associated therewith would be exempt from the Commission's NGA jurisdiction. Front Range states that such a ruling is warranted for the following three reasons: (1) The primary function of the subject facilities would be gathering which is exempt from Commission jurisdiction pursuant to Section 1(b) of the NGA; (2) Front Range's proposed gathering services would not require Commission rate regulation under Sections 4 and 5 of the NGA; and (3) regulation of Front Range would prevent it from competing on a level playing field with other gas gathering companies which are not regulated by the Commission.

Front Range states that it would operate solely as a gas gatherer, providing gathering services on a non-discriminatory basis to all customers and that it would not engage in the purchase, sale or transportation of natural gas in interstate commerce.

Any person desiring to be heard or to make any protest with reference to said petition should on or before December 26, 1991, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29513 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-2-46-000]

Kentucky West Virginia Gas Co.; Proposed Change in FERC Gas Tariff

December 5, 1991.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on November 29, 1991, tendered for filing with the Federal Energy Regulatory Commission (Commission) Fourth Revised Sheet No. 44 to its FERC Gas Tariff, Second Revised Volume No. 1, to become effective January 1, 1992.

Kentucky West states the revised tariff sheet amends its Gas Research Institute (GRI) funding charge to place in effect on January 1, 1992, the new Gas Research Institute funding unit of $.0147 per MCF as approved by the FERC in Opinion No. 365, issued on October 1, 1991, under Docket Nos. RP91-170-000 and 001, RP87-71-005 and RP88-182-005.

Kentucky West states that, by its filing, or any request or statement made therein, it does not waive any rights to collect amounts, nor the right to collect carrying charges applicable thereto, to which it is entitled pursuant to the mandate of the United States Court of Appeals for the Fifth Circuit issued on March 6, 1986, in *Kentucky West Virginia Gas Co.* v. *FERC*, 780 F.2d 1231 (5th Cir. 1986), or to which it becomes entitled pursuant to any other judicial and/or administrative decisions.

Kentucky West states that a copy of its filing has been served upon each of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois Cashell,

Secretary.

[FR Doc. 91-29539 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-2-5-000 and TM92-2-5-000]

Midwestern Gas Transmission Co.; Notice of Rate Filing Pursuant to Tariff Rate Adjustment Provisions

December 5, 1991.

Take notice that on November 29, 1991, Midwestern Gas Transmission Company (Midwestern) filed Sixth Revised Twenty-seventh Revised Sheet No. 5 and Sixth Revised Twenty-second Revised Sheet No. 6 to First Revised Volume No. 1 of its FERC Gas Tariff to be effective January 1, 1992.

Midwestern states that the purpose of this filing is to reflect a quarterly PGA rate adjustment to its sales rates for the period January 1, 1992 through March 31, 1992. The current Purchased Gas Cost Rate Adjustments reflected on Revised Sheet Nos. 5 and 6 consist of a $.8646 per dekatherm adjustment applicable to the gas component of Midwestern's sales rates, and a $3.74 per dekatherm adjustment applicable to the demand component. In addition, Midwestern has reflected the Gas Research Institute Rate Adjustment pursuant to article XVIII of the General Terms and Conditions of Midwestern's Tariff resulting in a new charge of $.0147 per dekatherm.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene; provided however, that any person who had previously filed a motion to intervene in this proceeding is not required to file a further motion. Copies of this filing are on file with the Commission and are available to public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29540 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-2-25-000]

Mississippi River Transmission Corp., Notice of Rate Change Filing

December 5, 1991.

Take notice that on November 27, 1991 Mississippi River Transmission Corporation (MRT) tendered for filing the following tariff sheets to its FERC Tariff.

Second Revised Volume No. 1

Seventieth Revised Sheet No. 4
Twenty-Ninth Revised Sheet No. 4.1
Eleventh Revised Sheet No. 4B

Original Volume No. 1-A

Eighth Revised Sheet No. 2
Eighth Revised Sheet No. 3

The tariff sheets reflect an increase in the Gas Research Institute (GRI) surcharge to 1.47 cents per MMBtu in accordance with the Commission's Opinion No. 365, issued October 1, 1991 at Docket No. RP91-170-000, *et al.*

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29541 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP92-39-000, TM92-2-26-000, and CP89-1281-018]

Natural Gas Pipeline Co. of America; Changes in FERC Gas Tariff

December 4, 1991.

Take notice that on November 27, 1991, Natural Gas Pipeline Company of America (Natural) tendered for filing tariff sheets listed on appendix A attached to the filing to be a part of its FERC Gas Tariff, Third Revised Volume No. 1 and First Revised Volume No. 1A, to be effective January 1, 1992.

Natural states that the filing is being made to: (a) reflect the GRI rate effective January 1, 1992; (b) reflect a change in Rate Schedules LS-2 and LS-3 to limit the daily withdrawal quantity in the event the customer fails to deliver its full Winter Withdrawal Quantity; (c) add a tariff provision as required by Order No. 537 that requires shippers to certify that their service qualifies under section 311; (d) change the time that transportation nominations are due; and (e) to comply with Commission order issued November 15, 1991 at Docket Nos. CP89-1281-000, *et al.*

Natural requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective January 1, 1992.

A copy of the filing is being mailed to Natural's jurisdictional customers, interested state regulatory agencies and all parties on the official service list at Docket Nos. CP89-1281-000, *et al.*

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before December 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29514 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP88-312-010]

Natural Gas Pipeline Co. of America; Sale of Natural Gas

December 5, 1991.

Take notice that on October 30, 1991, Natural Gas Pipeline Company of America (Natural), 701 East Lombard Street, Lombard, Illinois, 60148-5072, submitted the following information regarding the sale of natural gas to be made to an affiliate under Natural's Rate Schedule IS-1, pursuant to the authorization granted by order in Docket Nos. CP88-312-000 and CP88-312-002, issued December 20, 1998, and June 7, 1989, respectively (45 FERC ¶61,465 and 47 FERC ¶61,334).

(1) Name of Buyer: MidCon Marketing Corporation (MCM).

(2) Location of Buyer: Lombard, Illinois.

(3) Affiliation between Natural and Buyer: Natural is a subsidiary of MidCon Corp (MidCon). Both MidCon and MCM are subsidiaries of Occidental Petroleum Corporation.

(4) Term of Sale: December 1, 1991, through January 1, 1992, and month to month thereafter.

(5) Estimated Total and Maximum Daily Quantities—Daily Quantity: 200,000 MMBtu. Estimated total: 3,100,000 MMBtu.

(6) Maximum sales rate: $3.12 per MMBtu. Minimum sales rate: $2.37 per MMBtu. Rate to be charged during billing period: $2:69 per MMBtu.

Any interested party desiring to make any protest with reference to this sale of natural gas should file with the Federal Energy Regulatory Commission, Washington, DC 20426, within 30 days after issuance of this notice by the Commission, pursuant to the orders of December 20, 1998, and June 7, 1989. If no protest is filed within that time or the Commission denies the protest, the proposed sale may continue until the underlying contract expires. If a protest is filed, Natural may sell gas for 120 days from the date of commencement of service or until a termination order is issued, whichever is earlier.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29542 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-52-000]

NORA Transmission Co.; Proposed Rate Changes in FERC Gas Tariff

December 4, 1991.

Take notice that on November 29, 1991, Nora Transmission Company (Nora) tendered for filing proposed changes to the following tariff sheets of its FERC Gas Tariff, Original Volume No. 2, effective January 1, 1992:

First Revised Sheet No. 22
Superseding Original Sheet No. 22
First Revised Sheet No. 23
Superseding Original Sheet No. 23
Second Revised Sheet No. 37
Superseding First Revised Sheet No. 37
First Revised Sheet No. 52
Superseding Original Sheet No. 52
First Revised Sheet No. 67
Superseding Original Sheet No. 67

Nora states that the tariff sheets establish new tariff rates based upon actual costs for the 12 months ended July 31, 1991, adjusted as permitted by § 154.63(e)(2)(i) of the Commission's Regulations. Nora states that based on the actual volumes during such period, adjusted tariff rates will result in an approximate $252,000 increase in jurisdictional transportation revenues.

Nora further states that copies of its filing have been served upon each of its jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 10, 1991. Protests will be considered but not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29515 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-37-000]

Northern Border Pipeline Co.; Proposed Changes in FERC Gas Tariff

December 4, 1991.

Take notice that on November 26, 1991, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of Northern Border Pipeline Company's F.E.R.C. Gas Tariff, Original Volume No. 1, the following revised tariff sheets:

Twelfth Revised Sheet No. 157
Eleventh Revised Sheet No. 158

Northern's order states that with these tariff sheets, it proposes to revise the Maximum Rate and Minimum Revenue Credit under Rate Schedule IT-1 as called for by Northern Border's tariff on January 1 and July 1 of each year.

Northern Border proposes to decrease the Maximum Rate from 4.246 cents per 100 Dekatherm-Miles to 3.896 cents per 100 Dekatherm-Miles and also decrease the Minimum Revenue Credit from 2.937 cents per 100 Dekatherm-Miles to 2.690 cents per 100 Dekatherm-Miles.

Northern Border has requested that these revised tariff sheets be effective January 1, 1992. Copies of this filing have been sent to all of Northern Border's contracted shippers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the Commission's Rules Of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 10, 1991. Protests will be considered but not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29516 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-40-000]

December 4, 1991.

Northern Border Pipeline Co.; Proposed Changes in FERC Gas Tariff

Take notice that on November 27, 1991, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of Northern Border Pipeline Company's F.E.R.C. Gas Tariff, Original Volume No. 1, tariff sheets that reflect changes in two major areas.

Northern Border states that the primary group of revisions deals with the changes necessary to effectuate a process that will allow Northern Border and its Shippers to determine at the time of nomination the quantities of gas that will be delivered. Northern Border states that this group of changes includes:

1. Changes necessary to recognize Pipeline Balancing Agreements (PBA's) at receipt and delivery points.

2. Changes necessary to convert volumes from an Mcf basis to an MMBtu basis for nominating, scheduling and billing.

3. Changes necessary to establish fixed percentages for Company Use Gas and Lost or Otherwise Unaccounted for Gas and estimated quantities of Line Pack Requirement.

Northern Border states that the second group of revisions consist of miscellaneous housekeeping changes.

Northern Border has requested that these revised tariff sheets be effective January 1, 1992. Northern Border states that copies of this filing have been sent to all Northern Border's contracted shippers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 10, 1991. Protests will be considered but not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29517 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-4-59-000]

Northern Natural Gas Co. Proposed Changes in FERC Gas Tariff

December 5, 1991.

Take notice that Northern Natural Gas Company (Northern), on November 26, 1991 tendered for filing changes in its F.E.R.C. Gas Tariff, Third Revised Volume No. 1 (Volume No. 1 Tariff) and Original Volume No. 2 (Volume No. 2 Tariff).

Northern is filing the revised tariff sheets to adjust its Base Average Gas Purchase Cost in accordance with the Quarterly PBA filing requirements codified by the Commission's Order Nos. 483 and 483-A. The instant filing reflects a Base Average Gas Purchase Cost of $2.3396 per MMBtu to be effective December 1 through December 31, 1991.

Copies of the filing were served upon the Company's jurisdictional sales customers and interested state commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene of protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29543 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-4-37-000]

Northwest Pipeline Corp.; Proposed Change in FERC Gas Tariff

December 5, 1991.

Take notice that on November 27, 1991, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance the following tariff sheets:

Second Revised Volume No. 1

Fifteenth Revised Sheet No. 10
Fourteenth Revised Sheet No. 11
Ninth Revised Sheet No. 13

First Revised Volume No. 1-A

Ninth Revised Sheet No. 201

Original Volume No. 2

Twenty-Sixth Revised Sheet No. 2.3

Northwest states that the purpose of this filing is to update its Commodity SSP Surcharge effective January 1, 1992, to reflect (1) interest applicable to October, November and December 1991, and (2) the amortization of principal and interest. The proposed Commodity SSP Charge contained in this instant filing is 3.84¢ per MMBtu for the three months commencing January 1, 1992. Northwest states that this instant filing, and the Commodity SSP Surcharge included herein, was prepared in a manner consistent with the provisions of Commission orders, issued in Docket Nos. TM91-8-37 and TM92-2-37, which relate to the level of billing determinants to be used in the calculation of the Commodity SSP Surcharge.

Northwest has challenged the Commission's orders requiring it to calculate its Commodity SSP Surcharge based upon billing determinants other than those approved in the settlement of Phase I of Docket No. RP88-47. Northwest reserves the right and gives notice that it will refile its Commodity SSP Surcharge rates for any affected periods, including the three months beginning January 1, 1992, should Northwest ultimately be successful in its court appeals.

Northwest states that a copy of this filing has been served upon all parties of record in Docket No. RP89-137 and upon Northwest's jurisdictional customer list and affected state regulatory commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene of protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 384.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29544 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-5-37-000 amd TQ92-2-37-000]

Northwest Pipeline Corp.; Proposed Changes in Sales Rates Pursuant to Purchased Gas Cost Adjustment

December 5, 1991.

Take notice that on November 27, 1991, Northwest Pipeline Corporation ("Northwest") submitted for filing a proposed change in rates applicable to service rendered under rate schedules affected by and subject to article 16, Purchased Gas Cost Adjustment Provision ("PGA"), of its FERC Gas Tariff, Second Revised Volume No. 1. Such change in rates is for the purpose of reflecting changes in Northwest's estimated cost of purchased gas for the three months ending March 31, 1992.

The current PGA adjustment for which notice is given herein, aggregates to an increase of 10.54¢ per MMBtu in the commodity rate for all rate schedules affected by and subject to the PGA. The proposed change in Northwest's commodity rates for the first quarter of 1992 would increase sales revenues by approximately $661,912. The instant filing also provides for a decrease in the demand components of Northwest's gas sales rates to reflect changes to the estimates of Canadian demand rates and to reflect a revised Canadian exchange rate factor. The current PGA adjustment is reflected on Sheet Nos. 10 and 11 below, while all tariff sheets listed herein reflect the Commission approved revised GRI surcharge of 1.47¢ MMBtu, effective January 1, 1992. Therefore, Northwest tenders for filing and acceptance the following tariff sheets:

Second Revised Volume No. 1

Sixteenth Revised Sheet No. 10
Fifteenth Revised Sheet No. 11

First Revised Volume No. 1-A

Tenth Revised Sheet No. 201

Original Volume No. 2

Twelfth Revised Sheet No. 2.2

A copy of this filing is being served upon each person designated in the official service list compiled by the Secretary in Docket No. TA91-1-37 and upon all jurisdictional sales customers and affected state regulatory commissions.

Any person desiring to be heard or protest said filing should file a motion or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29545 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP91-208-004]

Ozark Gas Transmission System; Proposed Change in FERC Gas Tariff

December 4, 1991.

Take notice that Ozark Gas Transmission System ("Ozark") on November 27, 1991, tendered for filing the following revised tariff sheet in its FERC Gas Tariff, First Revised Volume No. 1:

Second Substitute Original Sheet No. 131

Ozark states that the purpose of this filing is to comply with the order issued by the Commission in the referenced dockets on November 13, 1991. The proposed effective date is December 1, 1991.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Regulations. All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29518 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-2-86-000]

Pacific Gas Transmission Co.; Change in Rates

December 5, 1991.

Take notice that on November 29, 1991, Pacific Gas Transmission Company (PGT), a California corporation, whose mailing address is 160 Spear Street, San Francisco, California 94105-1570, tendered for filing a revision in the Gas Research Institute (GRI) funding unit adjustment component of PGT's rates for certain sales and transportation services in accord with Paragraph 3, GRI Charge Adjustment Provisions of the General Terms and Conditions in PGT's FERC Gas Tariff Second Revised Volume No. 1 and Paragraph 2 of the Transportation General Terms and Conditions in PGT's FERC Gas Tariff Original Volume No. 1-A. This change in rates is filed pursuant to Section 4 of the Natural Gas Act and Part 154 of the regulations issued thereunder.

PGT states it is tendering certain tariff sheets in compliance with its GRI Tariff provisions, which reflect an increase in the GRI funding unit adjustment component of $0.0005 per Dth.

By Opinion No. 365 issued October 1, 1991 at Docket Nos. RP91-170-000 and 001, RP87-71-005 and RP88-182-005, the Commission amended and approved the GRI's application for advanced approval of its 1992 research and development program and related five-year plan for 1992-1996. In so doing, the Commission approved the GRI's 1992 funding requirement which is to be raised through a funding unit of 1.47 cents per Dth. Accordingly, the tendered revised tariff sheets, when accepted for filing and permitted to become effective, will increase the GRI funding unit adjustment component of PGT's rates for certain sales and transportation services from the currently effective 1.42 cents per Dth to the 1.47 cents per Dth approved by the Commission in Opinion No. 365.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection and in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29546 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP92-216-000]

Peoples Natural Gas Company, Division of Utilicorp United Inc.; Complaint

December 5, 1991.

Take notice that on November 29, 1991, Peoples Natural Gas Company, Division of Utilicorp United Inc. (Peoples) filed in Docket No. CP92-216-000 a complaint [1] against Natural Gas Pipeline Company of America (Natural) alleging an unlawful bypass through unfair competition to provide natural gas service to Arcadian Corporation (Arcadian), all as more fully set forth in the complaint which is on file with the Commission and open to public inspection.

Peoples states that it vehemently objects to the basis stated by Natural for withdrawing its February 12, 1991, prior notice filings. It is indicated that Natural states that the Commission's Order No. 537 "automatically" authorizes its transportation arrangements "without an application or notice procedure, so long as prior notification of the arrangement is provided both to the local distribution company in the service area of the end-user and to the local distribution company's appropriate regulatory agency." Peoples alleges that Natural has not met either requirement. Peoples argues that Natural's belief that issuance of Order No. 537 somehow exonerates Natural's illegal behavior or moots Peoples's protest is simply ludicrous.

Peoples states that even if Natural can fully comply with the Commission's Regulations promulgated under Order No. 537, that doesn't excuse Natual's unlawful transportation of gas prior to

[1] Peoples filing also answers Natural's motions to withdraw prior notice filings filed in Docket Nos. CP91-1231-000, CP91-1232-000, and CP91-1233-000 which had been protested by Peoples and not subsequently withdrawn.

the date of Order No. 537's issuance. Peoples also contends that Natural never intended to use the facilities for Natural Gas Policy Act of 1978 (NGPA) section 311 transportation and that Natural built facilities under section 311 and then failed to transport any gas under section 311. Peoples also points out that to allow Natural to avoid requirements mandated for other pipelines is discriminatory.

Peoples states that as it understands the prior notice procedures, Natural's transportation authority for Arcadian ended May 29, 1991, thirty days after Peoples protest was filed and not withdrawn, and after that date the only transportation available to Natural was under section 311 of the NGPA. Peoples claims that if Natural is providing section 311 service, Peoples did not receive any notice that Natural has requested authority for or commenced transportation outside of these dockets. Peoples claims that any transportation under section 311 without actual notice to Peoples or the Commission is clearly unlawful. Peoples concludes that even if Order No. 537 no longer requires prior notice filings, that fact doesn't grant approval for transportation conducted between May 30, 1991, and November 4, 1991.

Peoples points out that only Natural and Northern Natural Gas Company through Peoples can physically serve Arcadian with natural gas and Peoples has not been providing the service. Peoples also points out that because Arcadian must use natural gas in its product production, it is certain that Arcadian has been receiving gas from Natural throughout the pendency of the proceeding. It is also stated that Natural could not legally provide the service after May 29, 1991, under either the prior notice proceeding or under Section 311.

Peoples requests that the Commission's enforcement staff be informed of Natural's alleged transportation of natural gas without commerce authority.

Any person desiring to be heard or to make any protest with reference to said complaint should on or before January 6, 1992, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Answers to the complaint shall be due on or before January 6, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29603 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-38-000]

Sea Robin Pipeline Company; Proposed Changes to FERC Gas Tariff

December 4, 1991.

Take notice that on November 27, 1991, Sea Robin Pipeline Company (Sea Robin) tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1, to be effective November 3, 1991:

Third Revised Sheet No. 46
Original Sheet No. 50A

Sea Robin states that the purpose of this filing is to conform its "on behalf of" certification requirements for section 311 transportation to the revised requirements of Order No. 537 and § 284.102(e) of the Commission's Regulations. Sea Robin has requested a waiver of the Commission's Regulations in order to make these sheets effective November 3, 1991, the effective date of Order No. 537.

Sea Robin states that copies of the filing have been served upon its shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29520 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-140-009]

Questar Pipeline Co.; Proposed Changes in FERC Gas Tariff

December 4, 1991.

Take notice that Questar Pipeline Company (Questar) on November 15, 1991, tendered for filing proposed changes to its FERC Gas Tariff, Original Volume No. 2-A, in response to the Commission's October 31, 1991, Order on Certified Question, Accepting and Suspending Certain Tariff Sheets, Rejecting Other Tariff Sheets, Approving Uncontested Settlement and Dismissing Rehearing Request.

Questar has filed its proposed Second Revised Sheet No. 4 to FERC Gas Tariff, Original Volume 2-A and schedules related to its Clay Basin Storage Division. Questar states that the filing includes certain schedules revising Questar's July 1, 1991, compliance filing and new schedules involving the Clay Basin Storage Division that were not filed in the July 1, 1991, filing. The filing also contains interruptible gathering revenues and volumes for the base period and test period. This tariff sheet reflects a rate increase for certain rates for storage service.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29519 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-255-014]

South Georgia Natural Gas Co.; Proposed Changes to FERC Gas Tariff

December 4, 1991.

Take notice on November 27, 1991, South Georgia Natural Gas Company ("South Georgia") tendered for filing the following revised sheet to its FERC Gas Tariff, First Revised Volume No. 1:

Eightieth Revised Sheet No. 4
Fourth Revised Sheet No. 4A
Fourth Revised Sheet No. 4B
Sixth Revised Sheet No. 5
Sixth Revised Sheet No. 9
Third Revised Sheet No. 16D
Third Revised Sheet No. 16T

South Georgia states that it is making the instant filing in order to implement certain settlement rates that were ordered under the Commission's Order dated October 31, 1991 (the "Order"), approving the Stipulation and Agreement filed on August 23, 1991 in Docket Nos. RP89-225-000, TA90-1-8-000, RP88-267-000, RP91-63-000 and RM91-2-004. The proposed effective date is December 1, 1991.

South Georgia states that copies of the filing will be served upon all of South Georgia's jurisdictional customers, interested state commissions and interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure §§ 385.211 and 385.214). All such motions or protests should be filed on or before December 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29521 Filed 12-10-01; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-2-7-000 and TM92-3-7-000]

Southern Natural Gas Co.; Proposed Changes to FERC Gas Tariff

December 5, 1991.

Take notice that on November 27, 1991, Southern Gas Company (Southern) tendered for filing the following revised sheets to its FERC Gas Tariff, Sixth Revised Volume No. 1:

One Hundred Tenth Revised Sheet No. 4A
Twenty-Third Revised Sheet No. 4B
Twenty-Ninth Revised Sheet No. 4J
Third Revised Sheet No. 45I

The proposed tariff sheets and supporting information are being filed with proposed effective date of January 1, 1992 and reflect an increase of $.27 per Mcf at 1,000 Btu in the commodity component of Southern's rates from its last scheduled PGA filing, Docket No. TQ92-1-7-000, and an increase in Southern's demand rates for Zones 1, 2, and 3 of $.06, $.04, and $.11 per Mcf, respectively. Additionally, the proposed tariff sheets implement the recently authorized increase in the GRI surcharge to $.0147 per MMBtu effective January 1, 1992.

Copies of Southern's filing were served upon all of Southern's jurisdictional purchasers, shippers interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (§§ 385.214, 385.211). All such petitions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29547 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-51-000]

Tennessee Gas Pipeline Co., Proposed Rate Change

December 4, 1991.

Take notice that on November 29, 1991, Tennessee Gas Pipeline Company (Tennessee) tendered for filing the following revised tariff sheets to adjust its recovery of transition costs pursuant to Article XXX of the General Terms and Conditions of Volume One of its FERC Gas Tariff, effective January 1, 1992:

Third Revised Volume No. 1

Third Revised Fifth Revised Sheet No. 20
Third Revised Fifth Revised Sheet No. 21
Third Revised Third Revised Sheet No. 23
Second Revised Second Revised Sheet No. 24
Third Revised Third Revised Sheet No. 25
Third Revised Third Revised Sheet No. 26
Fourth Revised Sheet Nos. 38-42

Tennessee states that the purpose of this filing is to adjust Tennessee's transactions cost demand and commodity surcharges to reflect the recovery of an additional $1.1 million of new transition costs, which have been allocated under an equitable sharing formula of 25% absorption-25% demand-50% volumetric resulting in revised demand and volumetric surcharges under Article XXX of its tariff.

Tennessee states that copies of its filing are being mailed to all affected customers and state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29522 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-4-17-000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 5, 1991.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on November 25, 1991 tendered for filing as part of its FERC Gas Tariffs, Fifth Revised Volume No. 1 and Original Volume No. 2, six copies each of the following tariff sheets:

Fifth Revised Volume No. 1

Thirty-seventh Revised Sheet No. 50.1
Fortieth Revised Sheet No. 50.2
Twenty-third Revised Sheet No. 51
Sixth Revised Sheet No. 51.1
Seventh Revised Sheet No. 51.2
Seventh Revised Sheet No. 51.3

Original Volume No. 2

Sixth Revised Sheet No. 1J
Sixth Revised Sheet No. 1K
Fourth Revised Sheet No. 1L

Texas Eastern states that the above listed tariff sheets are being filed pursuant to section 25 of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Fifth Revised Volume No. 1, to include in Texas Eastern's rates the current GRI surcharge of 1.47 cents per dekatherm approved by the Commission in Opinion

No. 365 issued on October 1, 1991 in Docket Nos. RP91–170–000 and 001, RP87–71–005, and RP 88–182–005.

The proposed effective date of the tariff sheets listed above is January 1, 1992.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions. Copies of this filing have also been mailed to all Rate Schedule FT–1 and IT–1 Shippers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–29548 Filed 12–10–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM92–2–18–000]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 5, 1991.

Take notice that on November 27, 1991, Texas Gas Transmission Corporation (Texas Gas) tendered for filing the following revised tariff sheets to its FERC Gas Tariff:

FERC Gas Tariff, Original Volume No. 1

Forty-seventh Revised Sheet No. 10
Forty-seventh Revised Sheet No. 10A
Twenty-eighth Revised Sheet No. 11
Eighteenth Revised Sheet No. 11A
Eighteenth Revised Sheet No. 11B

FERC Gas Tariff, First Revised Volume No. 2–A

Third Revised Sheet No. 10A
Second Revised Sheet No. 10C
Third Revised Sheet No. 11

The revised tariff sheets are being filed pursuant to section 24 of volume No. 1 and section 20 of volume No. 2–A of Texas Gas's tariff to reflect the 1991 General RD&D Funding Unit authorized by Opinion No. 365, issued by the Commission on October 1, 1991, in Docket No. RP91–170, *et al.*, @ 57 FERC, Para. 61,010.

Copies of the revised tariff sheets are being mailed to Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91–29549 Filed 12–10–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT92–7–000]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 5, 1991.

Take notice that on November 26, 1991 Texas Gas Transmission Corporation (Texas Gas) tendered for filing the following revised tariff sheets to its FERC Gas Tariff:

Original Volume No. 1

Tenth Revised Sheet No. 1
Third Revised Sheet No. 1A
First Revised Sheet No. 20C
First Revised Sheet No. 30
First Revised Sheet Nos. 34B–34C
Second Revised Sheet No. 56
Fifth Revised Sheet No. 76
Fourth Revised Sheet Nos. 178–183
Fifth Revised Sheet No. 184
Third Revised Sheet No. 185
First Revised Sheet No. 186
Original Sheet No. 187

First Revised Volume No. 2–A

First Revised Sheet No. 1
First Revised Sheet No. 14
Original Sheet No. 61
First Revised Sheet Nos. 197–198
Original Sheet Nos. 199–200
Original Sheet No. 201
First Revised Sheet No. 208
Original Sheet Nos. 209–211

The aforementioned revised tariff sheets are being filed to update Texas Gas's Index of Purchasers and Index of Demand-2 Billing Demand Quantities in both its Original Volume No. 1 and First Revised Volume No. 2–A tariffs, in accordance with § 154.41 of the Commission's Regulations.

Additionally, the remaining revised tariff sheets are being filed to update various page number references in indices, as well as correct minor errors which were discovered subsequent to various filings by Texas Gas and approvals by the Commission.

Copies of the revised tariff sheets are being mailed to Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91–29550 Filed 12–10–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM92–4–29–000]

Transcontinental Gas Pipe Line Corp.; Notice of Tariff Filing

December 5, 1991.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on November 27, 1991 tendered for filing Second Revised Sheet No. 60 to its FERC Gas Tariff, Third Revised Volume No. 1, proposed to be effective January 1, 1992.

Transco states that the purpose of this filing is to reflect an increase of 0.05¢/dt in the Gas Research Institute (GRI) Adjustment Charge applicable to sales and transportation deliveries to distributors for resale, to pipelines which are not members of GRI, and to ultimate consumers.

On October 1, 1991 the Commission issued Opinion No. 365 in Docket Nos. RP91–170–000 *et al.* The Opinion provides that, as a member of GRI, Transco may file under its Gas Research Institute Charge Adjustment Provision to collect, in advance of payments to GRI, 1.47¢ per dt on sales and transportation deliveries. This charge will replace the currently effective charge of 1.42¢ per dt. All amounts collected under this provision will be remitted to GRI, less any applicable taxes.

Transco served copies of the filing to its customers and interested State Commissions. In accordance with provisions of § 154.16 of the Commission's Regulations, copies of this filing are available for public inspection, during regular business hours, in a convenient form and place at Transco's main offices at 2800 Post Oak Boulevard in Houston, Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection and in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29551 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-3-42-000]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

December 5, 1991.

Take notice that Transwestern Pipeline Company (Transwestern) on November 29, 1991 tendered for filing, as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Effective January 1, 1992

92nd Revised Sheet No. 5
56th Revised Sheet No. 6
2nd Revised Sheet No. 6C
18th Revised Sheet No. 37

The above referenced tariff sheets are being filed to adjust Transwestern's Gas Research Institute (GRI) Surcharge rate pursuant to section 21 of the General Terms and Conditions in Transwestern's FERC Gas Tariff, Second Revised Volume No. 1. The adjustment of the GRI Surcharge is determined each fiscal year pursuant to the Commission's Opinion No. 365. The GRI Surcharge of $0.0147/dth as determined by the Commission's Opinion No. 365 at Docket No. RP91-170-000 dated October 1, 1991, reflects an increase of $0.005/dth from the currently effective GRI Surcharge of $0.0142/dth. Transwestern requests that the revised GRI Surcharge as set forth on the above referenced tariff sheets become effective January 1, 1992.

Copies of the filing were served on Transwestern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29552 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-14-001]

Transwestern Pipeline Company; Compliance Filing

December 4, 1991.

Take notice that Transwestern Pipeline Company (Transwestern) on November 27, 1991 tendered for filing, as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Effective December 28, 1991

3rd Revised Sheet No. 51
1st Revised Sheet No. 80A

Transwestern states that the tariff sheets referenced above with an effective date of December 28, 1991 are being filed to comply with the Commission's Letter Order issued November 22, 1991 ("Order") in Docket No. RP92-14-000, which required Transwestern to refile revised tariff sheets within fifteen (15) days to reflect an operator confirmation deadline subsequent to the shipper nomination deadline.

Transwestern requested that the Commission grant any and all waivers of its rules, regulations, and orders as may be necessary so as to permit the tariff sheets submitted by it to become effective December 28, 1991.

Transwestern states that copies of the filing were served upon all parties of record in this proceeding, all Transwestern's utility customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29523 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-215-003]

Transwestern Pipeline Company; Compliance Filing

December 4, 1991.

Take notice that Transwestern Pipeline Company (Transwestern) on November 26, 1991 tendered for filing, as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Effective October 1, 1991

Substitute 89th Revised Sheet No. 5
Substitute 1st Revised Sheet No. 5D(iv)
Substitute 1st Revised Sheet No. 5E(iii)
Substitute 52nd Revised Sheet No. 6
Substitute 15th Revised Sheet No. 37
Substitute 9th Revised Sheet No. 89
Substitute 9th Revised Sheet No. 90

Effective November 2, 1991

2nd Substitute 90th Revised Sheet No. 5
2nd Substitute 53rd Revised Sheet No. 6
2nd Substitute 16th Revised Sheet No. 37
2nd Substitute 10th Revised Sheet No. 89

Effective December 1, 1991

2nd Substitute 91st Revised Sheet No. 5
Substitute 55th Revised Sheet No. 6
Substitute 1st Revised Sheet No. 6C
2nd Substitute 17th Revised Sheet No. 37

Transwestern states that the tariff sheets referenced above with an effective date of October 1, 1991 are being filed to comply with the Commission's Order issued November 21, 1991 ("Order") in Docket No. RP91-215-001.

In order to conform the TCR #8 compliance filing (filed November 14, 1991 in Docket No. RP92-008-001) and

the Interest Rate Adjustment Filing (also filed on November 14, 1991 in Docket TM92-2-42-001), Transwestern states, it is refiling the tariff sheets referenced above with effective dates of November 2, 1991, and December 1, 1991, respectively. Although the Commission has not yet acted on these filings, Transwestern requests that the tariff sheets submitted herewith with effective dates of November 2, 1991 and December 1, 1991 supersede those filed on November 14, 1991, since the TCR Surcharges B Rates reflected in the November 14 filings are no longer correct as a result of the Commission's November 21, 1991 Order in Docket No. RP91-215-001.

Transwestern requests that the Commission grant any and all waivers of its rules, regulations, and orders as may be necessary so as to permit the tariff sheets submitted by it to become effective October 1, November 2, and December 1, 1991, as indicated.

Transwestern states that copies of the filing were served upon all parties of record in this proceeding, all Transwestern's utility customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29524 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-49-000]

Transwestern Pipeline Company; Proposed Changes in FERC Gas Tariff

December 4, 1991.

Take notice that Transwestern Pipeline Company (Transwestern) on November 29, 1991 tendered for filing as part of its F.E.R.C. Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Effective January 1, 1992

93rd Revised Sheet No. 5
Original Sheet No. 5D(vi)
Original Sheet No. 5E(iv)
57th Revised Sheet No. 6
3rd Revised Sheet No. 6C
19th Revised Sheet No. 37
11th Revised Sheet No. 89
1st Revised Sheet No. 89A
11th Revised Sheet No. 90

The above-referenced tariff sheets are being filed by Transwestern to modify its take-or-pay, buy-out and buy-down mechanism ("TCR" mechanism) in order to recover certain take-or-pay, buy-out, buy-down, and contract reformation costs ("Transition Costs") which amounts it paid subsequent to the implementation date of its Gas Inventory Charge ("GIC"), October 1, 1989, and which do not qualify under the Litigation Exception provision of its tariff.

Transwestern respectfully requests that the Commission grant any and all waivers of its rules, regulations, and orders as may be necessary so as to permit the above listed tariff sheets to become effective January 1, 1992.

Transwestern states that copies of the filing were served on its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29525 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-2-30-000]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

December 5, 1991.

Take notice that Trunkline Gas Company (Trunkline) on November 27, 1991, tendered for filing the revised tariff sheets to its FERC Gas Tariff, Original Volume Nos. 1 and 2 as reflected in Appendix A attached to the filing.

Trunkline proposes that these tariff sheets become effective January 1, 1992.

Trunkline states that such filing reflects a rate adjustment pursuant to Opinion No. 365 in Docket Nos. RP91-170-000, *et al.* issued October 1, 1991. Ordering Paragraph (B) of that Opinion provides that jurisdictional members of Gas Research Institute (GRI), such as Trunkline, may file a general R&D cost adjustment to be effective January 1, 1992. This adjustment will permit the collection of 1.47 cents per Dt of Program Funding Services for payment to GRI.

Trunkline further states that the tariff sheets listed on appendix A attached to the filing reflect the Interim Settlement rates which Trunkline filed on November 25, 1991 in Docket No. RP89-160-000. In the event that the Interim Settlement rates do not become effective, Trunkline submits herewith alternate tariff sheets listed on appendix B attached to the filing, and requests that these become effective January 1, 1992.

Trunkline states that copies of its filing have been served on all affected customers and state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29553 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-47-000]

U-T Offshore System; Proposed Changes in FERC Gas Tariff

December 4, 1991.

Take notice that on November 29, 1991, U-T Offshore System (U-TOS) filed, pursuant to section 4 of the Natural Gas Act, for a general increase

in its transportation rates, proposing an effective date of January 1, 1992.

According to the filing, U–TOS attributes the need for an increase in rates to increases in operating and maintenance expenses and other increases in its cost of service as well as declining levels of transportation volumes on its system.

U–TOS states that, based upon volumes transported during the base period, as adjusted, the proposed rates will result in an increase in annual revenues to U–TOS of approximately $1.2 million when compared to the annual revenues generated by currently effective rates.

U–TOS requests that removal of the 100% load factor rate design condition for its commodity rate, which was imposed in Docket Nos. CP76–118, *et al.*

U–TOS also requests that its Experimental Capacity Brokering program be extended for one year, from January 1, 1992 until January 1, 1993 and, upon notice, from year to year thereafter.

Further, U–TOS requests that the filing also be accepted as in compliance with the biennial rate review condition in U–TOS' certificate.

U–TOS states that copies of the filing have been served on all affected shippers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 214). All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–29526 Filed 12–10–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM92–2–11–000]

United Gas Pipe Line Co.; Filing of Revised Tariff Sheets

December 5, 1991.

Take notice that on November 27, 1991, United Gas Pipe Line Company (United), tendered for filing the following revised tariff sheets with a proposed effective date of January 1, 1992:

Third Revised Volume No. 1

First Revised Sheet No. 4
First Revised Sheet No. 4A
First Revised Sheet No. 4B
Second Revised Sheet No. 4C
First Revised Sheet No. 4D
First Revised Sheet No. 4E
First Revised Sheet No. 4F
First Revised Sheet No. 4G
First Revised Sheet No. 4H
First Revised Sheet No. 124
First Revised Sheet No. 125

United states the above referenced tariff sheets are being filed to reflect the elimination of the GRI surcharge from its rates as a result of United's resignation from membership in the gas Research Institute effective January 1, 1992.

United states that the revised tariff sheets are being mailed to its jurisdictional customers and to interested state commissions.

Any person desiring to be heard or to protest said filing should file a Motion to Intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in such accordance with §§ 385.214 and 385.211 of the Commission's regulations. All such petitions or protests should be filed on or before December 11, 1991.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a Motion to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–29554 Filed 12–10–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–48]

Viking Gas Transmission Co; Proposed Changes in FERC Gas Tariff

December 4, 1991.

Take notice that on November 29, 1991, Viking Gas Transmission Company (Viking) filed primary and alternate tariff sheets to Original Volume Nos. 1 and 2 of its FERC Gas Tariff to be effective January 1, 1992:

Viking states that it has filed alternate tariff sheets to restate its Base Tariff Rates to be effective January 1, 1992 in the event that the Commission suspends the primary tariff sheets which increase Viking's rates beyond January 1, 1992.

Viking states that a copy of its filing was served on each of its customers and affected state commissions pursuant to § 154.16(b) of the Commission's Regulations.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–29527 Filed 12–10–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM92–4–43–000]

Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

December 5, 1991.

Take notice that Williams Natural Gas Company (WNG) on November 27, 1991 tendered for filing the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

Fifth Revised Sheet No. 6
Sixth Revised Sheet No. 6A
Fifth Revised Sheet No. 9

WNG states that this filing is being made to reflect an increase in the GRI funding unit from 1.42¢ per Dth for the year 1992, as approved by the Commission's Opinion No. 365, issued October 1, 1991.

WNG states that copies of its filing were served on all jurisdictional purchasers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies

of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29555 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-2-49-000]

Williston Basin Interstate Pipeline Co.; Gas Research Institute Funding Unit Adjustment Filing

December 5, 1991.

Take notice that on November 29, 1991, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff the following tariff sheets:

First Revised Volume No. 1

Thirty-eighth Revised Sheet No. 10

Original Volume No. 1-A

Thirty-first Revised Sheet No. 11
Thirty-seventh Revised Sheet No. 12

Original Volume No. 1-B

Twenty-sixth Revised Sheet No. 10
Twenty-sixth Revised Sheet No. 11

Original Volume No. 2

Thirty-Second Revised Sheet No. 11B

The proposed effective date of the tariff sheets is January 1, 1992.

Williston Basin states that the instant filing reflects the inclusion of the Gas Research Institute funding unit of 1.47 cents per Dkt as authorized by the Commission in its Opinion No 365, "Opinion on Remand, Denying Rehearing, and Approving Gas Research Institute's 1992 Research, Development, and Demonstration Program and Related Five-Year Plan for 1992-1996" issued October 1, 1991 in Docket Nos. RP91-170-000 *et al.*

Any person desiring to be heard or to protest said tariff application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with the Commission's rules 211 and 214. All such petitions or protests should be filed on or before December 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-29556 Filed 12-10-91; 8:45 am]

BILLING CODE 6717-01-M

Office of Conservation and Renewable Energy

Energy Conservation Program for Consumer Products; Application for Interim Waiver and Petition for Waiver of Furnace Test Procedures From the Trane Company (Case No. F-035)

AGENCY: Office of Conservation and Renewable Energy, Department of Energy.

SUMMARY: Today's notice publishes a letter granting an Interim Waiver to The Trane Company (Trane) from the existing Department of Energy (DOE) test procedures for furnaces regarding blower time delay for Trane's YC (D,H) 036-060 rooftop furnaces.

Today's notice also publishes a "Petition for Waiver" from Trane. Trane's Petition for Waiver requests DOE to grant relief from the DOE test procedures relating to the blower time delay specification. Trane seeks to test using a blower delay time of 30 seconds for its YC(D,H) 036-060 rooftop furnaces instead of the specified 1.5-minute delay between burner on-time and blower on-time. DOE is soliciting comments, data, and information respecting the Petition for Waiver.

DATE: DOE will accept comments, data, and information not later than January 10, 1991.

ADDRESSES: Written comments and statements shall be sent to: Department of Energy, Office of Conservation and Renewable Energy, Case No. F-035, Mail Stop CE-90, Room 6B-025, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-3012.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE-43, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9127.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-41, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9507.

SUPPLEMENTARY INFORMATION: The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94-163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95-619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public law 100-12, and the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100-357, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR part 430, subpart B.

DOE amended the prescribed test procedures by adding 10 CFR 430.27 on September 26, 1980, creating the waiver process. 45 FR 64108. Thereafter DOE further amended the appliance test procedure waiver process to allow the Assistant Secretary for Conservation and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions, added by the 1986 amendment, allow the Assistant Secretary to grant an Interim Waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is

sooner, and may be extended for an additional 180 days, if necessary.

On October 11, 1991, Trane filed an Application for an Interim Waiver regarding blower time delay. Trane's Application seeks an Interim Waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and starting of the circulating air blower. Instead, Trane requests the allowance to test using a 30-second blower time delay when testing its YC(D,H) 036–060 rooftop furnaces. Trane states that the 30-second delay is indicative of how these furnaces actually operate. Such a delay results in an energy savings of approximately 0.7 percent. Since current DOE test procedures do not address this variable blower time delay, Trane asks that the Interim Waiver be granted.

Previous waivers for this type of timed blower delay control have been granted by DOE to Coleman Company, 50 FR 2710, January 18, 1985; Magic Chef Company, 50 FR 41553, October 11, 1985; Rheem Manufacturing Company, 53 FR 48574, December 1, 1988, 55 FR 3253, January 31, 1990, and 55 FR 37521, September 12, 1990; Trane Company, 54 FR 19226, May 4, 1989, and 55 FR 41589, October 12, 1990; Lennox Industries, 54 FR 50525, December 7, 1989; DMO Industries, 55 FR 4004, February 6, 1990; Heil-Quaker Corporation, 55 FR 13184, April 9, 1990; Carrier Corporation, 55 FR 13182, April 9, 1990; Inter-City Products Corporation, 55 FR 31099, July 31, 1990, and 56 FR 27959, June 18, 1991; Amana Refrigeration Inc., 56 FR 853, January 9, 1991, and 56 FR 29957, July 1, 1991; Armstrong Air Conditioning, Inc., 56 FR 10553, March 13, 1991, and 56 FR 34200, July 26, 1991; Snyder General Corporation, 56 FR 14511, April 10, 1991; Goodman Manufacturing Corporation, 56 FR 20421, May 3, 1991; Thermo Products, Inc., 56 FR 32205, July 15, 1991; and the Ducane Company, 56 FR 45958, September 9, 1991. Thus, it appears likely that the Petition for Waiver will be granted for blower time delay.

In those instances where the likely success of the Petition for Waiver has been demonstrated based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, based on the above, DOE is granting Trane an Interim Waiver for its YC(D,H) 036–060 rooftop furnaces. Pursuant to paragraph (e) of section 430.27 of the Code of Federal Regulations, the following letter granting the Application for Interim Waiver to Trane was issued.

Pursuant to paragraph (b) of 10 CFR 430.27, DOE is hereby publishing the "Petition for Waiver" in its entirety.

December 5, 1991

Mr. John Leutert, Engineering Manager,
The Trane Company, Guthrie Highway, Clarksville, TN 37040

Dear Mr. Leutert: This is in response to your October 11, 1991, Application for Interim Waiver and Petition for Waiver from the Department of Energy (DOE) test procedures for furnaces regarding blower time delay for The Trane Company (Trane) YC(D,H) 036–060 rooftop furnaces.

Previous waivers for this type of timed blower delay control have been granted by DOE to Coleman Company, 50 FR 2710, January 18, 1985; Magic Chef Company, 50 FR 41553, October 11, 1985; Rheem Manufacturing Company 53 FR 48574, December 1, 1988, 55 FR 3253, January 31, 1990, and 55 FR 37521, September 12, 1990; Trane Company, 54 FR 19226, May 4, 1989, and 55 FR 41589, October 12, 1990; Lennox Industries, 54 FR 50525, December 7, 1989; DMO Industries, 55 FR 4004, February 6, 1990; Heil-Quaker Corporation, 55 FR 13184, April 9, 1990; Carrier Corporation, 55 FR 13182, April 9, 1990; Inter-City Products Corporation, 55 FR 31099, July 31, 1990, and 56 FR 27959, June 18, 1991; Amana Refrigeration Inc., 56 FR 853, January 9, 1991, and 56 FR 29957, July 1, 1991; Armstrong Air Conditioning, Inc., 56 FR 10553, March 13, 1991, and 56 FR 34200, July 26, 1991; Snyder General Corporation, 56 FR 14511, April 10, 1991; Goodman Manufacturing Corporation, 56 FR 20421, May 3, 1991; Thermo Products, Inc., 56 FR 32205, July 15, 1991; and The Ducane Company, 56 FR 45958, September 9, 1991.

Trane's Application for Interim Waiver does not provide sufficient information to evaluate what, if any, economic impact or competitive disadvantage Trane will likely experience absent a favorable determination on its application. However, in those instances where the likely success of the Petition for Waiver has been demonstrated, based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, Trane's Application for an Interim Waiver from the DOE test procedures for its YC(D,H) 036–060 rooftop furnaces regarding blower time delay is granted.

Trane shall be permitted to test its line of YC(D,H) 036–060 rooftop furnaces on the basis of the test procedures specified in 10 CFR Part 430, Subpart B, Appendix N, with the modification set forth below.

(i) Section 3.0 in Appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in section 9 in ANSI/ASHRAE 103–82 with the exception of sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 in appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t-), unless: (1) the furnace employs a single motor to drive the power burner and the indoor air circulation blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t-), using a stop watch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ±0.01 inch of water column of the manufacturer's recommended on-period draft.

This Interim Waiver is based upon the presumed validity of statements and all allegations submitted by the company. This Interim Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the application is incorrect.

The Interim Waiver shall remain in effect for a period of 180 days or until DOE acts on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180-day period, if necessary.

Sincerely,

J. Michael Davis,

Assistant Secretary, Conservation and Renewable Energy.

October 11, 1991.

Mr. Cyrus Nasseri, Assistant Secretary, Conservation and Renewable Energy,
Department EN, 1000 Independence Avenue, S.W., Washington, DC 20585.

Dear Mr. Nasseri: On May 7, 1991 Trane submitted a petition for waiver and interim waiver for Trane YC(D,H) 036–060 Rooftop Furnaces. I am requesting that petition be disregarded.

Trane is requesting approval for a waiver and interim waiver to Title 10 CFR Part 430–27 to allow a 30 second delay in place of the 1.5 minute delay in the furnace test procedure found in Appendix N to subpart B of part 430.

The 1.5 minute delay in the current test procedure allows significant energy loss at startup, thus providing inaccurate comparative data for the product.

The current test procedures do not give Trane credit for the energy savings which averages approximately 0.7% on the AFUE test results on the Trane YC(D,H) 036–060 Rooftop Furnaces.

Similar waivers for a 30 second delay have been granted to several other manufacturers.

Confidential supporting test data is available upon request.

Sincerely,

John Leutert,

Engineering Manager.

May 7, 1991.

Assistant Secretary, Conservation and Renewable Energy,

United States Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585.

Gentleman: This petition for waiver and interim waiver is submitted pursuant to Title 10 CFR Part 430.27. Waiver is requested from the furnace test procedure found at Appendix N to subpart B of part 430.

The test procedure requires a 1.5 minute delay between burner on and blower on. Trane is requesting authorization to use a zero (0) second delay instead of 1.5 minutes.

Trane is manufacturing a series of furnaces with a fixed control that activates the blower at the same time the burner comes on. This series includes the YC (D,H) 036–060 rooftop furnaces used for residential, commercial and industrial installations.

Maximum energy efficiency is achieved by the fixed timing controls in the YC (D,H) 036–060 series. The current test procedures do not give Trane credit for the energy saving which averages approximately 0.9% on the AFUE test results.

The heat exchanger design on the YC (D,H) 036–060 series is such that the heat-up is rapid and the 1.5 minute delay in the current test procedure allows significant energy loss at startup, thus providing inaccurate comparative data.

Similar waivers to the timed blower operation have been granted to several other manufacturers. All rooftop manufacturers known to Trane have been notified by letter of our application.

Confidential supporting test data is available upon request.

Sincerely,

John Leutert,

Engineering Manager.

[FR Doc. 91–29617 Filed 12–10–91; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Issuance of Decisions and Orders During the Week of October 28 Through November 1, 1991

During the week of October 28 through November 1, 1991, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

James L. Schwab, 11/1/91, LFA–0157

James L. Schwab (Schwab) filed an Appeal from a determination issued by the Office of the Inspector General (OIG) of the Department of Energy (DOE). This determination denied a Request for Information which Schwab had submitted under the Freedom of Information Act. Schwab requested from the OIG a report which was allegedly prepared by the Inspector General of the DOE concerning Schwab's dismissal from employment by a DOE subcontractor at the Tonopah Test Range. In considering the Appeal, the DOE found that an adequate search had been conducted in response to Schwab's request. Accordingly, the Appeal was denied.

The Gazette Newspapers, 10/31/91, LFA–0149

On October 2, 1991 the Gazette Newspapers filed an Appeal from a determination issued by the Department of Energy Naval Reactors Program (NRP) denying the Gazette's Freedom of Information Act (FOIA) request for three audits. The NRP withheld portions of the audits pursuant to Exemptions 2, 5 and 6. The appellant challenged only the portion of the NRP determination that concerned Exemption 5. The DOE found that the audits were properly withheld under the deliberative process privilege. The DOE also found that NRP failed to make an adequate determination with respect to the withholding of one document. Accordingly, DOE remanded the Appeal in part and denied the Appeal in all other respects.

Remedial Order

Port Petroleum, Inc., 10/29/91, KRO–0290

Port Petroleum, Inc. (Port) objected to a Proposed Remedial Order (PRO) that the DOE's Economic Regulatory Administration (ERA) issued to Port on April 7, 1986. In the PRO, the ERA alleged that Port misreported its receipts of crude oil to the Entitlements Program in violation of 10 CFR 211.66, 205.202 and, as a result, received over $9 million in unwarranted entitlements benefits. On August 23, 1991, the DOE bifurcated the PRO: the DOE issued a Remedial Order with respect to three sample months (the August RO) and stated that the remaining portion of the PRO would be addressed in this processing. Case No. KRO–0290. In considering Port's objections, the DOE noted that the PRO established a prima facie case of entitlements reporting violations and that the record included copies of the invoices upon which the ERA had calculated Port's receipts of price-controlled crude oil. The DOE further noted that Port failed to file any transaction-specific objections for the remaining portion of the PRO and that Port's general objections had been rejected in the August RO. Accordingly, the remaining portion of the PRO, subject to certain modifications, was issued as a final Remedial Order of the DOE.

Refund Applications

Asbury Transport, et al., 10/28/91, RF272–78541, et al.

The Department of Energy (DOE) has issued a Decision and Order granting refunds from crude oil overcharge funds to transportation firms represented McMickle & Edwards, Inc. These transportation firms purchased refined petroleum products between August 19, 1973 and January 27, 1981. They were end-users of the refined petroleum products and were therefore presumed injured. McMickle & Edwards, Inc. used reports filed with the Interstate Commerce Commission to estimate of the yearly dollar amounts expended on diesel fuel. In the past, the DOE has determined that it is reasonable for a firm to use both the yearly dollar amounts of its purchases and weight averaged price of that particular product to estimate the total number of gallons of a refined petroleum product that it purchased. Therefore, the DOE concluded that the estimation technique that McMickle & Edwards, Inc. employed is reasonable. The total of the refunds granted was $51,680.

Chrysler Motors Corp./American Motors Division, 10/30/91, RA272–38

The DOE issued a Decision and Order granting an Application for Refund filed by Chrysler Motors Corp., American Motors Division (American Motors) in the Subpart V crude oil refund proceeding. The DOE originally denied American Motors' application, based on its finding that Chrysler Transport, Inc., a current affiliate of American Motors, had waived the right of American Motors to a crude oil refund when it filed a claim in the Stripper Well Surface Transporter refund proceeding. However, because American Motors was not affiliated with Chrysler Transport as of the Payment Date in the Surface Transporters proceeding, the DOE, *sua sponte*, reconsidered American Motors' application. The DOE found that the applicant was an end-user of the petroleum products for which it sought a refund, and was therefore presumed injured. Based on purchases of 3,562,523 gallons of petroleum products, the DOE granted a refund of $2,850.

Shell Oil Company/Humphreys McCray Oil Company, 10/29/91, RF315–8921

The DOE issued a Decision and Order concerning the refund application that Humphreys-McCray Oil Company filed in the Shell Oil Company special refund proceeding. Claiming a refund for purchases of 7,407,803 gallons of covered Shell petroleum products, Humphreys-McCray established that it purchased 7,399,828 gallons of motor gasoline and middle distillates from Shell during the consent order period. However, Humphreys-McCray was also identified as a spot purchaser for its purchases of 7,975 gallons of aviation gasoline. Thus, Humphreys-McCray Oil Company was granted a refund of $2,338 (comprised of $1,672 in principal and $666 in interest) based on 7,399,828 purchased gallons of refined petroleum product (7,407,803 gallons minus the 7,975 gallons of aviation gasoline).

Summit, Inc., 11/1/91, RF272–27779, RD272–27779

The DOE issued a Decision and Order granting an Application for Refund filed by Summit, Inc., a highway construction contractor, in the subpart V crude oil refund proceeding. A group of States and Territories (States) objected to the application on the grounds that the applicant was able to pass through increased petroleum costs to its customers. In support of their objection, the States submitted an affidavit of an economist stating that, in general, construction firms were able to pass through increased petroleum costs. The DOE determined that the evidence offered by the States was insufficient to rebut the presumption of end-user injury and that the applicant should receive a refund. The DOE also denied that States' Motion for Discovery, finding that discovery was not warranted where the States had not presented evidence sufficient to rebut the applicant's presumption of injury. The refund granted to the applicant in this Decision was $20,758.

Texaco Inc/Carlos R. Leffler, Inc. T.T. M.A. 10/28/91, RF321–10223, RF321–16290

The DOE issued a Decision and Order concerning two Applications for Refund filed in the Texaco Inc. special refund proceeding. The application for Carlos R. Leffler Inc. was based on purchases made by a corporate distributorship wholly owned by Carlos R. Leffler. A refund of $63,710 ($50,000 principal and $13,710 interest) was granted to Carlos R. Leffler Inc. based on this application. The second application was based on purchases made by four retail service stations owned by Mr. Leffler. This application was denied because the station had been supplied by Mr. Leffler's distributorship. In addition, the total refund granted to Mr. Leffler had already reached the $50,000 maximum medium-range presumption of injury refund allowed in the Texaco proceeding.

Texaco Inc./Gene's Texaco, 10/30/91, RR321–3

Eugene Halbrooks filed a Motion for Reconsideration of a Decision and Order that denied duplicate Texaco refund applications that had been filed on his behalf by a private firm, Federal Refunds, Inc. (FRI). IN the Motion, Mr. Halbrooks stated that he had signed the second application, and certified that no other application had been filed, because he had informed FRI that the first application incorrectly identified his service station, and he had not expected FRI to file the incorrect application. In considering the Motion, the DOE found that the erroneous filing of the duplicate applications was solely caused by FRI. The DOE also found that Mr. Halbrooks had reasonable grounds for believing that the second application that he signed would be the only application filed by FRI. Accordingly, the Motion for Reconsideration was approved and Mr. Halbrooks was granted a refund of $2,938.

Texaco Inc./Koren Brothers Texaco Koren Brothers, 11/1/91, RF321–4882, RF321–13382

The DOE issues a Decision and Order concerning two Applications for Refund filed in the Texaco Inc. special refund proceeding with respect to a retail outlet that was a direct purchaser of Texaco refined products (Koren Bros.). One of the applicants, Carrie Koren, claimed the entire refund for purchases made by Koren Bros. because she is the widow of Edmund Koren, the sole proprietor of the station during the period March 1973 through November 1977. The other applicant, Esther Koren, claimed however, that during the period March 1973 through October 1975, Koren Bros. was operated as an equal partnership between Edmund and Teddy Koren, and that as the widow of Teddy Koren she was entitled to 50 percent of the refund for that period. Based on supplementary information provided by the applicants in this case, the DOE determined that Esther Koren's description of the circumstances of the station's ownership is correct and Carrie Koren's is incorrect. Consequently, in accordance with its previous holdings in cases concerning partnerships, the DOE determined that the refund to the outlet be divided between Esther and Carrie Koren in accordance with their husbands' degree of ownership. The total refund amount granted to Koren Bros. in this Decision is $1,606, representing $1,260 in principal and $346 in interest).

Texaco Inc./Super Flame Gas Co., Inc. Stallings Oil Co., 10/29/91, RF321–1740, RF321–5853

The DOE issued a Decision and Order concerning two Applications for Refund filed in the Texaco Inc. special refund proceeding on behalf of two resellers of Texaco refined products during the consent order period: Super Flame Gas Co., Inc. and Stallings Oil Co. Because the two companies have common ownership, the DOE determined that their applications should be considered together to determine the appropriate presumption of injury and refund amounts. Because 50 percent of the combined allocable share of the two companies was greater than $10,000, each company was granted a refund equal to 50 percent of its allocable share under the medium-range presumption of injury. The total of the refunds granted in this Decision is $50,560, representing $39,680 in principal and $10,880 in interest.

Thomaston Mills, Inc., 10/30/91, RF272–8199, RD272–8199

Thomaston Mills, Inc. (Thomaston), a manufacturer of textiles, filed an Application of Refund from the subpart V crude oil overcharge monies based upon its purchases of refined petroleum products (gasoline, fuel oil, and propane) consumed in its business operations. A group of thirty State and Two Territories of the United States ("the States") filed an objection opposing the receipt of a refund by Thomaston on the ground that textile companies, such as Thomaston, were in a position to pass through increased costs and thus were not injured by crude oil overcharges. In considering the States' objection, the DOE determined that Thomaston was presumptively injured by crude oil overcharges under the presumption of injury established by DOE with respect to end-users outside of the petroleum industry, and that the States' general assertions were insufficient to rebut this presumption. On this basis, the DOE further determined that the States' Motion for Discovery was without basis. Accordingly, Thomaston's Application for Refund was approved and the State's Motion for Discovery was denied. The refund granted in this decision was $6,688.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and

Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Name	Case No.	Date
Atlantic Richfield Company/Colonial Auto Clinic *Et al.*	RF304-3864	10/29/91
Atlantic Richfield Company/Cornwall Fuel Co.	RF304-12510	11/01/91
Atlantic Richfield Company/ Edward's Arco.	RR304-4	10/28/91
Atlantic Richfield Company/ Manassas Ice and Fuel Co., Inc.	RR304-12	10/30/91
Atlantic Richfield Company/Paul's Arco.	RF304-3633	10/30/91
Atlantic Richfield Company/Warner Company.	RF304-9706	11/01/91
Rural Gas Co	RF304-11965	
C & T Arco	RF304-12191	
Citronelle-Mobile Gathering/Falstaf Brewing Corporation.	RF336-4	10/28/91
City of Newark *Et al*	RF272-72672	10/31/91
Empire Gas Corporation/ Richard P. Stewart *Et al.*	RF335-10	10/28/91
Enron Corporation/ Master Gas Service Company.	RF340-19	10/28/91
Fomentos Armadora, S.A. *Et al.*	RF272-65350	10/30/91
Kronos Maritime Agency S.A.	RD272-65352	
Prometheus Maritime Corp.	RD272-65355	
Thenamaris Inc	RD272-65357	
Fred Weber, Inc	RF272-9991	10/31/91
Fred Weber, Inc	RD272-9991	
Giant Cement Co	RF272-26655	10/29/91
Giant Cement Co	RD272-26655	
Vecellio & Grogan, Inc.	RF272-26747	
Vecellio & Grogan, Inc.	RD272-26747	
Griffith Co	RF272-28254	
Griffith Co	RD272-28254	
Gulf Oil Corporation/ Abel's Gulf *Et al.*	RF300-14070	10/31/91
Gulf Oil Corporation/ Thomas' Gulf, James L. Johnson Gulf.	RR300-101 RR300-110	10/29/91
Lynd School District *Et al.*	RF272-78745	10/31/91
Mid-State Construction Co.	RF272-29745	10/31/91
Mid-State Construction Co.	RF272-29745	
Murphy Oil Corp./ Mishke Oil Station *Et al.*	RF309-1047	11/01/91
Shell Oil Company/ C.A. Swim, Jr. *Et al.*	RF315-96	11/01/91
Shell Oil Company/ Long Island Lighting Company.	RF315-6839	11/01/91
State of Alabama	RF272-67586	10/31/91
Tesoro Petroleum Corp./Wells Petroleum Co.	RF326-95	11/01/91
Refiners Distributing Corp.	RF326-96	
P & O Falco, Inc	RF326-313	
UPG, Inc	RF326-314	
Texaco Inc./4th Plain Car Wash *Et al.*	RF321-17	11/01/91
Texaco Inc./Burrow Bros. *Et al.*	RF321-10264	10/29/91
Texaco Inc./Carleton Oakes Texaco *Et al.*	RF321-9802	11/01/91
Texaco Inc./ Chapman Texaco Service *Et al.*	RF321-2218	11/01/91
Texaco Inc./Grand Gorge Petroleum Supply *Et al.*	RF321-8092	10/28/91
Texaco Inc./ University Texaco.	RF321-11592	10/31/91
University Texaco	RF321-17162	

Dismissals

The following submissions were dismissed:

Name	Case No.
Alfred B. Stewart	RF300-14912
Andrew J. Butler	RF321-15701
Armstrong & Davis Texaco #6	RF321-9791
Buffalo County, Wisconsin	RF272-86030
Errol's Texaco	RF321-17445
G&H Texaco	RF321-17323
G&H Texaco	RF321-16923
Gallagher & Carson Texaco	RF321-16993
George Caillier's Service Station	RF300-13087
Golden Texaco	RF321-17376
Golden Texaco	RF321-300
Hallmark Texaco	RF321-17402
Hoffman Oil Co.	LEE-0030
Ideal Basic Industries, Inc.	RF272-9181
J.T. Jones Gulf Service	RF300-13543
Jack's Texaco #2	RF321-12361
Joe's Arco Service	RF304-3784
McCook County, S.D.	RF272-85035
McRae & Company	RF300-16524
Mosley Oil Company	RF321-17400
Rooks' Grocery Store	RF300-12767
South Sioux City Community Schools.	RF272-87467
Southwire Company	RF272-0305
Southwire Company	RF272-65566
Speedway Petroleum	RF300-17011
Speedway Petroleum	RF300-17012
St. John's Mercy Medical Center	RF272-88884
The Western Sand & Gravel Co.	RF272-89954
University Texaco	RF321-17437
Yarber's Texaco	RF321-17436

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: December 4, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 91-29616 Filed 12-10-91; 8:45 am]

BILLING CODE 6450-1-M

Issuance of Decisions and Orders During Week of September 23 Through September 27, 1991

During the week of September 23 through September 27, 1991 the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Charles R. McCarter, 9/25/91, LFA-0143

Charles R. McCarter (McCarter) filed an Appeal from a determination issued by the Richland Operations Office (ROO) of the Department of Energy. The determination denied a request for a waiver of fees in connection with a Request for Information which McCarter had filed with the DOE. In considering the Appeal, the DOE determined that the ROO was correct in finding that McCarter had not demonstrated that he could significantly contribute to the public's understanding of government activities or operations. Specifically, the DOE found that McCarter had failed to produce any evidence to establish that he could disseminate the information contained in the requested material to the public. Accordingly, McCarter's Appeal was denied.

Request for Exception

S&S Oil And Propane Co., Inc., 9/23/91, LEE-0023

The Office of Hearings and Appeals of the Department of Energy issued a Decision and Order relieving S&S Oil and Propane Co., Inc. of its obligation to file form EIA-782B. In the Decision, the OHA determined that the filing requirement constituted a severe hardship to S&S because its owner, who was the only office worker and the only person who could complete the form, was experiencing severe health problems. The OHA therefore granted S&S permanent relief from its obligation to file the form.

Implementation of Special Refund Procedures

Stanco Petroleum, Inc., 9/25/91, LEF-0031

The DOE issued a Decision and Order implementing special refund procedures to distribute $114,992.23, and accrued interest, remitted to the DOE by Stanco Petroleum, Inc., in settlement of its alleged violations of crude oil price and allocation regulations. The DOE determined that the monies would be added to the crude oil refund pool to be disbursed to the federal government, the states, and injured claimants in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases. Two comments had been submitted when DOE published the Stanco Decision in Proposed form. Wm. Dan Brown had suggested that the DOE calculate and list the current, cumulative volumetric amount for all crude oil refund proceedings. Philip Kalodner had suggested that the DOE either enlarge the allocation of funds for claimants or lower the volumetric refund amount to claimants filing after October 31, 1989, so as to ensure what he contended was a proper restitutionary amount for his clients. After considering these comments, the DOE did not accept either Mr. Brown's or Mr. Kalodner's suggestions.

Refund Applications

Atlantic Richfield Co./Cherry Hill Arco Auto Servicenter, 9/25/91, RF 304–9100

The DOE issued a Decision and Order granting a refund of $483 plus $238 in accrued interest for a total of $721 to Cherry Hill ARCO Auto Servicenter, representing a full volumetric refund based upon purchases of 656,896 gallons of ARCO products. The DOE rejected the claim that the firm had sustained disproportionate injury in the amount of $13,281,09. That claim was in part based upon the allegation that ARCO failed to repair or replace Cherry Hill's gasoline storage tanks, thereby preventing the firm from obtaining its proper allocation of ARCO gasoline. The DOE found this claim untrue and even if valid, a dispute not governed by the mandatory price and allocation regulations, and thus not a basis for a refund. Finally, other material submitted by Cherry Hill failed to demonstrate that the firm experienced disproportionate injury as a result of ARCO's actions.

Deininger and Rupe Dental Laboratory, 9/26/91, RF272–65384

The DOE issued a Decision and Order granting an Application for Refund in the subpart V crude oil overcharge refund proceeding submitted by the Deininger and Rupe Dental Laboratory (D&R). D&R has based its claim for a refund on its purchases of gasoline, kerosene, lubricants, paraffin wax, and methyl methacrylate during the crude oil price control period. The DOE found that D&R was eligible to receive a refund for its purchases of gasoline, kerosene, and lubricants. It could not receive a refund for its purchases of paraffin wax and methyl methacrylate, however, because these products were not covered by the Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751–760.

LTV Steel Mining Company, 9/24/91, RF 272–8087, RD272–8087

LTV Steel Mining Company (LTV) filed an Application for Refund from the subpart V crude oil overcharge monies based upon its purchases of refined petroleum products (gasoline, fuel oil, propane, greases and motor oil) consumed in its business operations. A group of thirty States and Two Territories of the United States ("the States") filed an objection opposing the receipt of a refund by LTV on the ground that mining companies, such as LTV, were in a position to pass through increased costs and thus were not injured by crude oil overcharges. In connection with their objection, the States also filed a Motion for Discovery. In considering the States' objection, the DOE determined that LTV was presumptively injured by crude oil overcharges under the presumption of injury established by DOE with respect to end-users outside of the petroleum industry, and that the States' general assertions were insufficient to rebut this presumption. On this basis, the DOE further determined that the States' Motion for Discovery was without basis. Accordingly, LTV's Application for Refund was approved and the States' Motion for Discovery was denied. The refund granted in this decision was $69,162.

Shell Oil Co./Bob Lloyd L.P. Gas Company Et al., 9/25/91, RF315–8819 Et al.

The DOE issued a Decision and Order concerning the refund applications filed in the Shell Oil Company special refund proceeding by Bob Lloyd L.P. Gas Company and Carlos Morales. Bob Lloyd L.P. Gas Company and Carlos Morales each submitted three Applications for Refund. Since all claims submitted by a firm or a group of affiliated firms should be considered together to determine the relevant presumption of injury, Bob Lloyd L.P. Gas Company's three Applications and Carlos Morales' three Applications were considered together. The total refund granted in this Decision was $13,910 ($10,000 in principal and $3,910 in interest).

Shell Oil Co./Twin Enterprises, Inc., 9/26/91, RF315–6233, RF315–6244

The DOE issued a Decision and Order granting an Application for Refund filed on the Shell Oil Company (Shell) special refund proceeding. These applications were filed by Robert Fereday (Fereday) on behalf of Twin Enterprises, Inc. (Twin Enterprises), which sold Shell petroleum products during the consent order period. Twin Enterprises was incorporated in 1979. Fereday and his wife, Cathy Fereday, each owned 50% of the outstanding stock. In 1986, Fereday sold his 50% of the corporation's stock to John Wilson (Wilson), but held the stock in escrow as security for payment on Wilson's promissory note. Cathy Fereday retained 50% of the Twin Enterprises' stock. In November 1987, Wilson stopped making payments to Fereday. In April 1988, Twin Enterprises lost its lease and subsequently dissolved. Upon examination of the purchase and sales agreement, OHA determined that the transfer of stock was never completed. The agreement submitted by Fereday provided that Fereday could take possession of the stock in the event of Wilson's default. Fereday therefore regained the right to 50% of any refunds payable to Twin Enterprises. Therefore, OHA determined that Robert and Cathy Fereday should share equally in the refund granted to Twin Enterprises. The total amount approved in this Decision and Order is $1,740 ($1,251 principal plus $489 interest) based on Twin Enterprises' purchases of 5,537,331 gallons of Shell petroleum products.

Sitmar Cruises, 9/23/91, RF272–27787, RD272–27787

The DOE issued a Decision and Order granting an Application for Refund filed by Sitmar Cruises (Sitmar), a foreign cruise line owner and operator, in the subpart V crude oil refund proceeding. Rejecting arguments raised by a group of state governments, the DOE concluded that (i) the Applicant was eligible to receive crude oil refunds even though it was under foreign ownership; and (ii) foreign ocean carriers were not automatically able to pass through increased bunker fuel costs to their customers. The DOE concurred with the States' position that the DOE price regulations did not apply to sales in the Panama Canal Zone (PCZ). However, Sitmar affirmed that it made no purchases in the PCZ. Therefore, based upon Sitmar's purchases of 164,436,094 gallons of petroleum products, the DOE granted a refund of $131,549. The DOE also denied a Motion for Discovery filed

by the States for reasons discussed in previous Decisions.

Texaco Inc./Dudley Fuel Co., et al., 9/24/91, RF321-2776 et al.

The DOE issued a Decision and Order concerning 22 Applications for Refund filed in the Texaco Inc. special refund proceeding. Each applicant purchased directly from Texaco and was a reseller whose allocable share is less than $10,000, or an end-user. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. One of the applicants, Commonwealth Edison Co., was a public utility generating electrical power during the refund period. The DOE found that since the utility's refund claim was entirely based on purchases of petroleum products that were not directly related to the generation of electricity, any overcharges would not have been automatically passed through to its customers through the fuel adjustment mechanism. Consequently, Commonwealth Edison Co. was not required to pass through this refund to its customers. The total refund amount granted in this Decision is $122,052 ($96,262 principal plus $25,790 interest).

Texaco Inc./Rainbow Servicenter Inc., 9/26/91, RF321-6064, RF321-9936

On September 26, 1991, the Office of Hearings and Appeals (OHA) of the Department of Energy issued a Decision and Order concerning two Applications for Refund that were filed on behalf of Rainbow Servicenter, Inc. (Rainbow). One application was filed by Rose Goldstein Cooper for purchases made by Rainbow from 1973 through 1974 (RF321-6064). The second application was filed by Rainbow for purchases made from 1973 through 1981 (RF321-9936). The OHA determined that Rainbow was entitled to a refund for the entire refund period, and that Ms. Cooper's application should be denied. The OHA found that the retail outlet at which all of the purchases were made was owned and operated by Rainbow during the entire refund period. Rainbow was granted a refund of $10,171.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Roon of the Office of Hearings and Appeals.

African Supply and Purchasing Corp..	RF272-28043	09/24/91
Atlantic Richfield Co./Capiccioni ARCO *et al.*	RF304-12361	09/25/91
Atlantic Richfield Co./Delta Airlines, Inc..	RF304-3116	09/25/91
Atlantic Richfield Co./J. E. DeWitt, Inc. *et al.*	RF304-4046	09/23/91
Atlantic Richfield Co./John C. Gabbert.	RF304-4935	09/27/91
Gabbert Oil Company..	RF304-4964	
ARCO Service—Jacksboro Hwy..	RF304-8311	
Bear Creek Mini Mart...	RF304-10079	
Atlantic Richfield Co./Tire Town ARCO *et al.*	RF304-7455	09/27/91
Atlantic Richfield Co./Walsh & Ramirez ARCO *et al.*	RF304-9205	09/23/91
Boone County Oil Co., Inc..	RF272-63561	09/27/91
Intermountain Farmers Assn..	RF272-73620	
Donald Reisenaur.....	RC272-138	09/26/91
E.D.G., Inc./H. E. Graham.	RF311-7	09/23/91
Gulf Oil Corp./Gulf Service Station.	RF300-17435	09/27/91
Macfield, Inc.....	RF272-8205	09/27/91
Monmouth Medical Center.	RF272-8101	09/25/91
Christ Hospital	RF272-8221	
Northeast Petroleum Industries/Mystic Fuel.	RFRF323-13	09/25/91
McClellan Fuel Co., Inc..	RF323-18	
De Pinto Fuel Oil Corp..	RF323-29	
Packerland Packing Co., Inc..	RF272-8203	09/26/91
Shell Oil Co./Wallace Oil Co..	RF315-6312	09/24/91
Thompson Oil Co., Inc..	RF315-6470	
Buncutter Oil Corp.	RF315-6471	
Texaco, Inc.	RF315-6571	
Shell Oil Co./Wesley Martin Oil Co., Inc. *et al.*	RF315-8928	09/24/91
State of Iowa	RC272-137	09/23/91
Tesoro Petroleum Corp./U.S. Oil Co., Inc. *et al.*	RF326-24	09/25/91
Texaco Inc./Adams & Son Texaco *et al.*	RF321-9784	09/24/91
Texaco Inc./Bowlin Texaco.	RF321-16865	09/26/91
Texaco Inc./Harry's Texaco *et al.*	RF321-6111	09/24/91
Texaco Inc./Mickan Motor Co. *et al.*	RF321-10105	09/26/91
Texaco Inc./Oak Grove Truck Stop *et al.*	RF321-11188	09/23/91
Texaco Inc./Ray Parrish Texaco Service *et al.*	RF321-10133	09/26/91
Texaco Inc./ University Texaco.	RF321-16940	09/25/91

Dismissals

The following submission were dismissed:

Name	Case No.
Al's Texaco	RF321-4508
Bob's Texaco on So. 48	RF321-3561
Draper Gulf	RF300-13501
Ellison's Texaco Service	RF321-7877
George Smith Arco #2	RF304-12114
Glenn's Arco Service	RF304-12100
Houtz's Texaco	RF321-4004
J. Packes S/S Corp	RF321-1638
Kosky's Gulf	RF300-11740
Monmouth Medical Center	RF272-88710
Mrs. Joe McDaniel	RF300-13760
New Suburban Texaco	RF321-1513
South Side Texaco	RF321-2053
Tubb's Texaco Service	RF321-1428
U-Gas	RF304-4972
Web's Service Station	RF321-1485
Weiner's Texaco	RF321-2880
Wilbanks Texaco & Engraving	RF321-2961

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: December 4, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 91-29615 Filed 12-10-91; 8:45 am]

BILLING CODE 6450-01-M

Notice of Issuance of Decisions and Orders; Week of October 21 Through October 25, 1991

During the week of October 21 through October 25, 1991, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Federation of American Scientist, 10/24/91, LFA-0153

The Federation of American Scientists (FAS) filed an Appeal from a denial by the Nevada Operations Office of a request for information that it filed under the Freedom of Information Act (FOIA). In its Appeal, the FAS challenged the DOE's refusal to acknowledge the existence of documents responsive to its request, and requested that the documents, if classified, be declassified. The DOE determined that the initial determination

was procedurally improper in that a classification issue had been determined by a DOE employee lacking the necessary authority to make such a determination. Accordingly, the Appeal was denied and remanded for a new determination.

James L. Schwab, 10/25/91, LFA–0155

James L. Schwab filed an Appeal from a denial by the DOE Field Office, Albuquerque (DOE/AL) of a request for information submitted under the Freedom of Information Act (FOIA). In its determination, DOE/AL stated that a search had been conducted but that no responsive documents were found. Schwab challenged the adequacy of the search. In considering the Appeal, the DOE found that where a search was made of a computerized correspondence tracking system and files maintained by the DOE/AL's Office of Chief Counsel, DOE/AL followed procedures which were reasonably calculated to uncover the material sought by Schwab. The search was therefore adequate and Schwab's appeal was accordingly denied.

Implementation of Special Refund Procedures

Time Oil Company, 10/25/91, LQF–0038

The DOE issued a Decision and Order implementing second-stage refund procedures in the matter of Time Oil Company. Pursuant to the Decision, seven states (California, Idaho, Hawaii, Montana, Nevada, Oregon and Washington) may submit plans for the use of their share of the Time Oil funds.

Refund Applications

Cooper Oil Company, Inc., RF272–78123
Cahill Oil Company, Inc., 10/25/91, RF 272–78124

The DOE issued a Decision and Order denying a refund from the crude oil overcharge escrow account to Cooper Oil Company, Inc., and Cahill Oil Company, Inc., two resellers of petroleum products. The DOE determined that both firms were able to pass through their petroleum costs to their customers, either as product or nonproduct costs, and thus were ineligible to receive a refund.

Meridian Oil Holding Inc., 10/25/91, RF272–24492

The DOE issued a Decision and Order denying an Application for Refund filed by Meridian Oil Holding Inc., (Meridian) in the subpart V crude oil refund proceeding. An affiliate of the Applicant, Burlington Northern Railroad Company, had received a refund from the Rail and Water Transporters (RWT) Escrow pursuant to the M.D.L. No. 378 Stripper Well Settlement Agreement. As recently as the date of its application (December 29, 1987), Burlington Northern, Inc., parent company of Burlington Northern Railroad, owned 100 percent of Meridian through its wholly-owned subsidiary, The El Paso Company. Burlington Northern Railroad signed a required RWT waiver pursuant to which it released all rights, including those of its affiliates, to a subpart V crude oil refund. Being under the common control of Burlington Northern as of the payment date of the RWT Escrow (August 7, 1986), Meridian and Burlington Northern Railroad, and its Application for Refund was accordingly denied.

Murphy Oil Corporation/Metro 500, Inc., 10/25/91, RF309–1284

The DOE issued a Decision and Order denying an Application for Refund filed in the Murphy Oil Corporation (Murphy) special refund proceeding. This application was filed by Petroleum Funds, Inc. (PFI) on behalf of Metro 500, Inc., (Metro), a reseller of Murphy petroleum products during the consent order period. Metro was originally identified as being a spot purchaser, having purchased Murphy products during only one year of the refund period. Dan Brown of PFI stated that Murphy had reneged on its contract with Metro after less than one year and refused to make further sales to Metro. When asked to provide a copy of the supply agreement between Murphy and Metro and a monthly breakdown of purchases for 1975, Mr. Brown stated that all records had been destroyed and no additional information was available. Therefore, as the applicant failed to satisfy the criteria necessary to rebut the spot purchaser presumption, the DOE determined that the submission be denied.

Shell Oil Company/Crawford Propane Gas, Inc., RF315–7303
John Roger Crawford, RF315–10169
Robert Dale Crawford, 10/25/91, RF315–10170

The DOE issued a Decision and Order concerning the three related Applications for Refund filed in the Shell Oil Company special refund proceeding by John C. Crawford and his two sons, John Roger Crawford and Robert Dale Crawford. The applications were based on purchases made by a corporation, Crawford Propane Gas, Inc. During the refund period, John C. Crawford owned 80 percent of the corporation's stock while each son owned a 10 percent interest. Since the Crawfords dissolved Crawford Propane Gas, Inc., in 1981, their total gallonage eligible for refund has been apportioned according to the percentage of corporate stock owned by each family member. Accordingly, John C. Crawford was granted a refund of $839 ($600 principal and $239 interest) based upon 2,656,540 gallons (80 percent of 3,320,674 gallons). John Roger Crawford and Robert Dale Crawford were each granted principal refunds of $105 ($75 principal and $30 interest) based upon 332,067 gallons (10 percent of 3,320,674 gallons). The total refund granted in this Decision is $1,049 ($750 principal and $299 interest).

Texaco Inc./Alec Texaco, RF321–8635
Judson Cole, 10/25/91, RF321–11238

The DOE issued a Decision and Order concerning two Applications for Refund in the Texaco Inc. special refund proceeding filed by two reseller of refined petroleum products. Both applicants had previously received refunds in the Texaco proceeding. Canadian American Oil Co. (Canadian) filed on behalf of Alec Texaco and had previously received a medium-range presumption of injury refund for two other affiliated retail outlets that it owned during the consent order period. Judson Cole, a petroleum jobber, had received a small claims refund for Texaco product purchases made by an affiliated retail outlet. In accordance with the DOE's policy of treating affiliated firms as one firm for purposes of applying the presumptions of injury, the DOE decided that each claimant's allocable share and refund would be calculated based upon the combined gallonage in all of its Texaco refund claims. Therefore, Canadian received a medium-range presumption of injury refund based on 50 percent of Alec Texaco's allocable share. Judson Cole was entitled to receive a medium-range presumption of injury refund of $10,000 based on the combined gallonage for all of his Texaco applications. Therefore, Cole's previous refund amount was subtracted from $10,000 to determine his current refund.

Texaco Inc./Fikes Wholesale, Inc., RF321–9674
C.E. Fikes, 10/25/91 RF321–9676

The DOE issued a Decision and Order in the Texaco Inc. special refund proceeding concerning the Applications for Refund filed on behalf of Fikes Wholesale, Inc. (FWI) and C.E. Fikes. Mrs. C.E. Fikes owns C.E. Fikes and 51 percent of FWI. In light of the common ownership, the DOE found that the two firms should be considered together in determining the appropriate presumption of injury. The DOE determined that each applicant was eligible to receive a refund equal to 50

percent of its allocable share under the mid-level presumption of injury. The sum of the refunds granted in this Decision is $16,505 ($12,953 principal plus $3,552 interest).

Texaco Inc./McWhirter Distributing Co., Inc., 10/21/91, RF321-10559

The DOE issued a Decision and Order concerning an Application for Refund filed by McWhirter Distribution Co., Inc. (McWhirter) in the Texaco Inc. special refund proceeding. McWhirter's allocable share was calculated to be in excess of $10,000. Since McWhirter did not elect to make a showing of injury, the firm was eligible to receive the larger of $10,000 or 40 percent of its allocable share up to $50,000. In this case, the firm was eligible for the maximum mid-range presumption refund of $50,000. Accordingly, McWhirter was granted a refund of $63,710 ($50,000 principal and $13,710 interest). However, the DOE determined that it was not appropriate to issue a refund directly to McWhirter at this time since there is an enforcement proceeding involving McWhirter pending before the Federal Energy Regulatory Commission. In view of this situation, the DOE directed that McWhirter's refund be placed in a separate interest-bearing escrow account. When McWhirter's enforcement proceeding is terminated, the DOE will issue a Supplemental Order governing the disbursement of McWhirter's refund.

Texaco Inc./Millin Brothers Oil Co. et al., 10/21/91, RF321-6555 et al.

The DOE issued a Decision and Order concerning four Applications for Refund filed in the Texaco Inc. special refund proceeding. Each of the applicants purchased indirectly from Texaco and was supplied by a firm that either (i) had been granted a Texaco refund under a presumption of injury, or (ii) indicated in its refund application that it did not intend to seek a refund based upon a finding of injury. In accordance with prior Decisions, the claims of the applicants were therefore considered under the procedures used to evaluate direct purchase claims. Each applicant was a reseller whose allocable share is less than $10,000 and whose supplier stated that it purchased exclusively from Texaco during the consent order period. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $11,632 ($9,129 principal and $2,503 interest).

Texaco Inc./Union Texas Petroleum Corporation, 10/21/91, RF321-6414/ RF321-11108

The DOE issued a Decision and Order in the Texaco Inc. refund proceeding concerning two Applications for Refund filed by Union Texas Petroleum Corporation (Union). The DOE determined that Union's purchases included petroleum products that were resold and products that were used by the firm in other operations. The DOE determined that the applicant should not be granted refunds based upon both the reseller and end-user presumptions of injury. Therefore, Union was granted a refund of $40,796 ($32,176 principal and $8,620 interest) based on its purchase of end-use gallons. Union received no refund for that portion of its purchases which was resold.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

A.W. Oakes & Son, Inc..	RF272-28022	10/24/91
Atlantic Richfield Company/Dollar a Day Rent a Car *et al.*	RF304-10377	10/22/91
Atlantic Richfield Company/Farmers Union Central Exchange Inc.	RF304-4410	10/22/91
Atlantic Richfield Company/ Keeney's Arco *et al.*	RF304-10083	10/24/91
Atlantic Richfield Company/Silva's Oil Company *et al.*	RF304-4497	10/25/91
Atlantic Richfield Company/Thurston Garage #1 *et al.*	RF304-11805	10/24/91
Barry, Inc	RF272-11115	10/24/91
David Pelha	RF272-50779	
Citronelle-Mobile Gathering/Niagara Mohawk Power Corp.	RF336-27	10/24/91
Great Neck Public Schools	RF272-60120	10/24/91
Gulf Oil Corporation/ Bryan's One Stop *et al.*	RF300-13016	10/24/91
Gulf Oil Corporation/ Corner Gulf.	RF300-17577	10/25/91
Ray's Gulf Service	RF300-17578	
Gulf Oil Corporation/ Fingles Fuel Corp. *et al.*	RR300-29	10/22/91
Gulf Oil Corporation/ Gene's Gulf.	RF300-11815	10/22/91
Gulf Oil Corporation/ McCandless Fuels, Inc.	RF300-8417	10/22/91
Elmer E. Althouse, Inc.	RF300-17759	
Gillis & Moore, Inc.	RF300-17760	
Gulf Oil Corporation/ Morris Petroleum, Inc.	RR300-75	10/22/91
Gulf Oil Corporation/ R.W. Howle.	RF300-11603	10/25/91
Northeast Petroleum Industries/C.W. & G.W. Nightingale Oil.	RF323-25	10/24/91
Newport Electric Corporation.	RF323-30	
Oceanside Union Free School District.	RF272-60709	10/24/91
Tesoro Petroleum Corp./San Antonio City Water Board *et al.*	RF326-55	10/24/91
Texaco Inc./A&A Oil Company *et al.*	RF321-8235	10/24/91
Texaco Inc./B&F Distributing Inc.	RF321-10705	10/24/91
Crump Oil Co	RF321-10779	
Portsmouth Oil Co	RF321-10818	
Texaco Inc./Bill Hofmann & Sons Texaco.	RF321-826	10/24/91
Texaco Inc./Charles Wulfjen.	RF321-8578	10/24/91
Charles Wulfjen	RF321-9673	
Charles Wulfjen	RF321-9674	
Texaco Inc./ Consumers Oil Corp. *et al.*	RF321-11416	10/25/91
Texaco Inc./Dallas/ Fort Worth Dr. Pepper Bottling *et al.*	RF321-10728	10/22/91
Texaco Inc./G.W. Jewettt and Son, Inc.	RF321-17389	10/25/91
Texaco Inc./ Independent Oil Co. of CT, Inc *et al.*	RF321-7201	10/24/91
Texaco Inc./Valley Ice & Fuel Co., Inc. *et al.*	RF321-1441	10/22/91

Dismissals

The following submissions were dismissed:

Name	Case No.
9th Avenue Gulf	RF300-12659
AABC Appliance of Texas	RF272-89845
Al Bakhit's Texaco	RF321-11568
Bayside Grocery	RF300-11943
Circle Line Sightseeing Yachts, Inc.	RF272-57892
Colorado Crane & Hauling, Inc	RF272-10680
De Musis Texaco	RF321-7286
Gillespie Arco	RF304-10507
Gypsum Transport Co	RF321-6877
H.B. Ranier Construction Co	RF300-11263
John's Texaco Service	RF321-16320
Kash 'N Karry	RF309-344
Lutherville Gulf	RF300-11528
May 50 Texaco	RF321-9206
Norman Douglas Realty	RF300-13669
Oil Transport Company	RF321-6882
Pauline Y. Knox Investment Co., Inc.	RF323-20
Rose Oil Products Inc	RF321-7282
Scullin Oil Co	RF304-7261
South Carolina	RM251-255
South Carolina	RM21-256
Speedway Petroleum	RF300-16769
St. Mary's Hospital	RF272-10682
Tom Owens' Gulf	RF300-11040
Valley Center Car Wash	RF304-11655
Wildcat Petroleum	RF300-13670

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: December 4, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 91–29614 Filed 12–10–91; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4039–6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before January 10, 1992.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Water

Title: Estimate of Municipal Wastewater Treatment Facility Requirements for the Needs Survey. (ICR 0318.04)

Abstract: Sections 205(a) and 516(b)(1) of the Clean Water Act (CWA) require EPA, in conjunction with the States and Territories, to conduct an inventory of the nation's Publicly-Owned Treatment Works (POTWs) every two years. This survey is intended primarily to address the construction needs and cost estimates of POTWs. Additionally, the Needs Survey must provide an estimate of the need for further POTW construction. Following completion of the survey, EPA will compile the results and submit them in a report to Congress.

ICR 0318.04 seeks reinstatement of OMB clearance for the information requirements associated with the Needs Survey. These requirements fall on the States and Territories, whose contributions consist of the following:

— Assembling the data on POTWs,
— Providing documentation where needed,
— Explaining certain categories of need based on construction costs,
— Explaining anomalies in the POTW data.

Burden Statement: The average burden imposed by the Needs Survey is 400 hours per response. This total includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: States and Territories.

Estimated No. of Respondents: 59.

Estimated Total Annual Burden on Respondents: 11,800 hours.

Frequency of Collection: Biennially.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460 and

Matt Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503.

Dated: December 2, 1991.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 91–29605 Filed 12–10–91; 8:45 am]

BILLING CODE 6560–50–M

[OPP–60025; FRL–4002–6]

Intent to Suspend Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of issuance of notices of intent to suspend.

SUMMARY: This Notice, pursuant to section 6 (f)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq., announces that EPA has issued Notice(s) of Intent to Suspend pursuant to section 3(c)(2)(B) of FIFRA. The Notice(s) were issued following issuance of Data Call-In Notice(s) by the Agency and the failure of registrant(s) subject to the Data Call-In Notice(s) to take appropriate steps to secure the data required to be submitted to the Agency. This Notice includes the text of a Notice of Intent to Suspend, absent specific chemical, product, or factual information. Table A of this Notice further identifies the registrant(s) to whom the Notice(s) of Intent to Suspend were issued, the date each Notice of Intent to Suspend was issued, the active ingredient(s) involved, and the EPA registration number(s) and name(s) of the registered product(s) which are affected by the Notice(s) of Intent to Suspend. Moreover, Table B of this Notice identifies the basis upon which the Notice(s) of Intent to Suspend were issued. Finally, matters pertaining to the timing of requests for hearing are specified in the Notice(s) of Intent to Suspend and are governed by the deadlines specified in section 3(c)(2)(B). As required by section 6(f)(2), the Notice(s) of Intent to Suspend were sent by certified mail, return receipt requested, to each affected registrant at its address of record.

FOR FURTHER INFORMATION CONTACT: Stephen L. Brozena, Office of Compliance Monitoring (EN–342), Laboratory Data Integrity Assurance Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (703) 308–8267.

SUPPLEMENTARY INFORMATION:

I. Text of a Notice of Intent to Suspend

The text of a Notice of Intent to Suspend, absent specific chemical, product, or factual information, follows:

United States Environmental Protection Agency

Office of Pesticides and Toxic Substances

Washington, DC 20460

Certified Mail

Return Receipt Requested

SUBJECT: Suspension of Registration of Pesticide Product(s) Containing _____ for Failure to Comply with the 3(c)(2)(B) Data Call-In Notice for _____ Dated _____.

Dear Sir/Madam:

This letter gives you notice that the pesticide product registration(s) listed in Attachment I will be suspended 30 days from your receipt of this letter unless you take steps within that time to prevent this Notice from automatically becoming a final and effective order of suspension. The Agency's authority for suspending the registration(s) of your product(s) is section 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Upon becoming a final and effective order of suspension, any violation of the order will be an unlawful act under section 12(a)(2)(J) of FIFRA.

You are receiving this Notice of Intent to Suspend because you have failed to

comply with the terms of the 3(c)(2)(B) Data Call-In Notice. The specific basis for issuance of this Notice is stated in the Explanatory Appendix (Attachment III) to this Notice. Affected product(s) and the requirement(s) which you failed to satisfy are listed and described in the following three attachments:

Attachment I Suspension Report - Product List

Attachment II Suspension Report - Requirement List

Attachment III Suspension Report - Explanatory Appendix

The suspension of the registration of each product listed in Attachment I will become final unless at least one of the following actions is completed.

1. You may avoid suspension under this Notice if you or another person adversely affected by this Notice properly request a hearing within 30 days of your receipt of this Notice. If you request a hearing, it will be conducted in accordance with the requirements of section 6(d) of FIFRA and the Agency's procedural regulations in 40 CFR part 164.

Section 3(c)(2)(B), however, provides that the only allowable issues which may be addressed at the hearing are whether you have failed to take the actions which are the bases of this Notice and whether the Agency's decision regarding the disposition of existing stocks is consistent with FIFRA. Therefore, no substantive allegation or legal argument concerning other issues, including but not limited to the Agency's original decision to require the submission of data or other information, the need for or utility of any of the required data or other information or deadlines imposed, and the risks and benefits associated with continued registration of the affected product, may be considered in the proceeding. The Administrative Law Judge shall by order dismiss any objections which have no bearing on the allowable issues which may be considered in the proceeding.

Section 3(c)(2)(B)(iv) of FIFRA provides that any hearing must be held and a determination issued within 75 days after receipt of a hearing request. This 75-day period may not be extended unless all parties in the proceeding stipulate to such an extension. If a hearing is properly requested, the Agency will issue a final order at the conclusion of the hearing governing the suspension of your product(s).

A request for a hearing pursuant to this Notice must (1) include specific objections which pertain to the allowable issues which may be heard at the hearing, (2) identify the registration(s) for which a hearing is requested, and (3) set forth all necessary supporting facts pertaining to any of the objections which you have identified in your request for a hearing. If a hearing is requested by any person other than the registrant, that person must also state specifically why he asserts that he would be adversely affected by the suspension action described in this Notice. Three copies of the request must be submitted to: Hearing Clerk, A-110, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, and an additional copy should be sent to the signatory listed below. The request must be *received* by the Hearing Clerk by the 30th day from your receipt of this Notice in order to be legally effective. The 30-day time limit is established by FIFRA and cannot be extended for any reason. Failure to meet the 30-day time limit will result in automatic suspension of your registration(s) by operation of law and, under such circumstances, the suspension of the registration for your affected product(s) will be final and effective at the close of business 30 days after your receipt of this Notice and will not be subject to further administrative review.

The Agency's Rules of Practice at 40 CFR 164.7 forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives. Accordingly, the following EPA offices, and the staffs thereof, are designated as judicial staff to perform the judicial function of EPA in any administrative hearings on this Notice of Intent to Suspend: The Office of the Administrative Law Judges, the Office of the Judicial Officer, the Administrator, the Deputy Administrator, and the members of the staff in the immediate offices of the Administrator and Deputy Administrator. None of the persons designated as the judicial staff shall have any *ex parte* communication with trial staff or any other interested person not employed by EPA on the merits of any of the issues involved in this proceeding, without fully complying with the applicable regulations.

2. You may also avoid suspension if, within 30 days of your receipt of this Notice, the Agency determines that you have taken appropriate steps to comply with the section 3(c)(2)(B) Data Call-In Notice. In order to avoid suspension under this option, you must satisfactorily comply with Attachment II, Requirement List, for each product by submitting all required supporting data/information described in Attachment II and in the Explanatory Appendix (Attachment III) to the following address (preferably by certified mail):

Office of Compliance Monitoring (EN-342), Laboratory Data Integrity Assurance Division, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

For you to avoid automatic suspension under this Notice, the Agency must also determine within the applicable 30-day period that you have satisfied the requirement(s) that are the bases of this Notice and so notify you in writing. You should submit the necessary data/information as quickly as possible for there to be any chance the Agency will be able to make the necessary determination in time to avoid suspension of your product(s).

The suspension of the registration(s) of your company's product(s) pursuant to this Notice will be rescinded when the Agency determines you have complied fully with the requirements which were the bases of this Notice. Such compliance may only be achieved by submission of the data/information described in the attachments to the signatory below.

Your product will remain suspended, however, until the Agency determines you are in compliance with the requirements which are the bases of this Notice and so informs you in writing.

After the suspension becomes final and effective, the registrant subject to this Notice, including all supplemental registrants of product(s) listed in Attachment I, may not legally distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I.

Persons other than the registrant subject to this Notice, as defined in the preceding sentence, may continue to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I.

Nothing in this Notice authorizes any person to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I in any manner which would have been unlawful prior to the suspension.

If the registration(s) of your product(s) listed in Attachment I are currently suspended as a result of failure to comply with another section 3(c)(2)(B) Data Call-In Notice or Section 4 Data

Requirements Notice, this Notice, when it becomes a final and effective order of suspension, will be in addition to any existing suspension, i.e., all requirements which are the bases of the suspension must be satisfied before the registration will be reinstated.

You are reminded that it is your responsibility as the basic registrant to notify all supplementary registered distributors of your basic registered product that this suspension action also applies to their supplementary registered product(s) and that you may be held liable for violations committed by your distributors.

If you have any questions about the requirements and procedures set forth in this suspension notice or in the subject 3(c)(2)(B) Data Call-In Notice, please contact Stephen L. Brozena at (703) 308–8267.

Sincerely yours,

Director, Office of Compliance Monitoring

Attachments:

Attachment I - Product List

Attachment II - Requirement List

Attachment III - Explanatory Appendix

II. Registrant(s) Receiving and Affected by Notice(s) of Intent to Suspend; Date of Issuance; Active Ingredient and Product(s) Affected

A letter of notification has been sent for the following product(s):

TABLE A—PRODUCT LIST

Registrant Affected	EPA Registration Number	Active Ingredient	Name of Product	Date Issued
Kaw Valley Inc.	04421500097	Ammonium Sulfamate	Liquid Edger	11/8/91
Laroche Industries Inc.	00344200802	Ammonium Sulfamate	Brush & Weed Killer	11/8/91
	00344200828	Ammonium Sulfamate	Liquid Edger Ready to Use Herbicide	11/8/91
Southern Mill Creek Products	00672000133	Chloropicrin	SMCP Chloropicrin Fumigant	11/8/91
	00672000230	Chloropicrin	SMCP Termifume	11/8/91

III. Basis for Issuance of Notice of Intent; Requirement List

The following registrant(s) failed to submit the following required data or information:

TABLE B—REQUIREMENT LIST

Active Ingredient	Registrant Affected	Requirement Name	Original Due-Date
Ammonium Sulfamate	Kaw Valley Inc.	30-Day Response	8/26/90
Ammonium Sulfamate	Laroche Industries Inc.	30-Day Response	8/24/90
Chloropicrin	Southern Mill Creek Products	90-Day Response	1/1/91

IV. Attachment III Suspension Report--Explanatory Appendix

A discussion of the basis for the Notice of Intent to Suspend follows:

A. Ammonium Sulfamate

In April 1981, EPA issued a Registration Standard which included a Data Call-In Notice pursuant to the authority of FIFRA section 3(c)(2)(B) which required registrants of products containing ammonium sulfamate (AMS) used as an active ingredient to develop and submit data. These data were determined to be necessary to maintain the continued registration of affected products. Failure to comply with the data requirements of a Registration Standard is a basis for suspension under section 3(c)(2)(B) of FIFRA.

The Ammonium Sulfamate Registration Standard required each affected registrant to submit materials demonstrating selection by the registrant of the options to address the data requirements. You applied for and were granted a generic data exemption and therefore, you relied on the efforts of others to provide the Agency with the required data. The basic manufacturer of ammonium sulfamate for use in pesticide products is no longer producing ammonium sulfamate products nor is it supporting its registration. As a result, the responsibility for generating the necessary data to maintain the registration lies with the remaining registrants.

In a letter dated July 18, 1990, the Agency informed you and other registrants of ammonium sulfamate products of the above status and required that you inform the Agency within 30 days of your receipt of the letter of the steps you were electing to take regarding the data requirements necessary to support your registration. Because the Agency has not received a response from you as an ammonium sulfamate registrant to undertake the required testing or any other appropriate response (i.e., voluntary cancellation), the Agency is initiating through this Notice of Intent to Suspend the actions which FIFRA requires it to take under these circumstances.

B. Chloropicrin

On September 28, 1990, EPA issued a Data Call-In Notice (DCI) under the authority of FIFRA section 3(c)(2)(B) which required registrants of products containing chloropicrin used as an active ingredient to develop and submit data. These data were determined to be necessary to maintain the continued registration of affected products. Failure to comply with the requirements of a Data Call-In Notice is a basis for suspension under section 3(c)(2)(B) of FIFRA.

The Chloropicrin Data Call-In Notice required each affected registrant to submit materials relating to the election of the options to address the data requirements. That submission was required to be received by the Agency within 90 days of the registrant's receipt of the DCI. Because the Agency has not received a response from you as a chloropicrin registrant to undertake the required testing or any other appropriate response, the Agency is initiating through this Notice of Intent to Suspend the actions which FIFRA requires it to take under these circumstances.

V. Conclusions

EPA has issued Notice(s) of Intent to Suspend on the dates indicated. Any further information regarding the Notice(s) may be obtained from the contact person noted above.

Dated: November 27, 1991.

Michael M. Stahl,

Director, Office of Compliance Monitoring.

[FR Doc. 91–29608 Filed 12–10–91; 8:45 am]

BILLING CODE 6560–50–F

[OPP-30327; FRL-3999-2]

Asahi Chemical Manufacturing Co., Ltd.; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by January 10, 1992.

ADDRESSES: By mail submit comments identified by the document control number [OPP-30327] and the registration/file number to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Attention PM 22, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, Attention PM 22, Registration Division (H7505C), Environmental Protection Agency, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: PM 22, Cynthia Giles-Parker, rm. 229, CM #2, (703-305-5540).

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

I. Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 64922-R. Applicant: Asahi Chemical Manufacturing Co., Ltd., c/o M-D Group Incorporation (U.S. Agent), 6708 S. Atlanta Place, Tulsa, OK 74136. Product name: Atonik. Plant growth regulator. Active ingredients: Sodium p-nitrophenolate 0.3%, sodium o-nitrophenolate 0.2%, and sodium 5-nitroguaiacolate 0.1%. Proposed classification/Use: General. For use on cotton, rice, and soybeans. (PM 22)

2. File Symbol: 64922-E. Applicant: Asahi Chemical Manufacturing Co., Ltd. Product name: Sodium 5-Nitroguaiacolate Technical. Plant growth regulator. Active ingredient: Sodium 5-nitroguaiacolate 98%. Proposed classification/Use: None. For manufacturing purposes only. (PM 22)

3. File Symbol: 64922-G. Applicant: Asahi Chemical Manufacturing Co., Ltd. Product name: Sodium p-Nitrophenolate Technical. Plant growth regulator. Active ingredient: Sodium p-nitrophenolate 82%. Proposed classification/Use: None. For manufacturing purposes only. (PM 22)

4. File Symbol: 64922-U. Applicant: Asahi Chemical Manufacturing Co., Ltd. Product name: Sodium o-Nitrophenolate Technical. Plant growth regulator. Active ingredient: Sodium o-nitrophenolate 98%. Proposed classification/Use: None. For manufacturing use only. (PM 22)

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operations Division (PRPRB) office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the PRPRB office (703-305-5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

Dated: October 23, 1991.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 91-29494 Filed 12-10-91; 8:45 am]

BILLING CODE 6560-50-F

[OPP-50716A; FRL-3944-2]

Issuance of Experimental Use Permit; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice corrects an experimental use permit (EUP) that published in the **Federal Register** of July 31, 1991 (56 FR 3613), concerning the extension of an EUP for FMC Corporation. In EUP 279-EUP-117, on page 3614, first column, first paragraph, lines 6 and 7, the chemical was incorrectly categorized as an insecticide and misspelled. The correct spelling is 2-(2-chlorophenyl) methyl-4,4-dimethyl-3-isoxazolidinone. The chemical should had been listed as a herbicide.

FOR FURTHER INFORMATION CONTACT: By mail: Robert Taylor, PM 25, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person or by telephone: 1921 Jefferson Davis Highway, rm. 245, CM #2, Arlington, VA, (703-557-1800).

Dated: October 9, 1991.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 91-29496 Filed 12-10-91; 8:45 am]

BILLING CODE 6560-50-F

[OPP-30000/48D; FRL 3930-8]

Granular Carbofuran; Conclusion of Special Review

AGENCY: Environmental Protection Agency (EPA, the Agency).

ACTION: Notice of final determination.

SUMMARY: This Notice announces the conclusion of EPA's Special Review of granular carbofuran. The Special Review is concluded due to the amendment to the granular carbofuran registrations phasing out most uses of granular carbofuran. These amendments were requested pursuant to the Agreement in Principle signed by the Agency and FMC Corporation on May 13, 1991. The specific terms and conditions of this agreement are more fully described later in this Notice.

ADDRESSES: Information supporting this action is available for public inspection from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays in the Information Services Section, Field Operations Division, Office of Pesticide Programs, Environmental Protection Agency, rm. 1128, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. Telephone: (703) 557–2805.

FOR FURTHER INFORMATION CONTACT: By mail: Karis L. North, Special Review Branch, Special Review and Reregistration Division (H7508C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 2N3, 3rd Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308–8036.

I. Introduction

This Notice of final determination concludes the granular carbofuran Special Review which was initiated in October, 1985. The Special Review examined the acute risks granular carbofuran posed to avian species. No other effects of concern triggered the Special Review. In January, 1989, EPA proposed to cancel all uses of granular carbofuran based on a finding that the risks of granular carbofuran outweighed the benefits of continued use. While the Agency was preparing to finalize the proposed cancellation, EPA entered into negotiations with FMC Corporation, the sole registrant of granular carbofuran. The result of these negotiations was a Memorandum of Agreement in Principle, signed on May 13, 1991 that will phase-out all but five minor uses of granular carbofuran over the next four growing seasons (until August, 1994). This document explains the May, 1991 settlement agreement and the Agency's rationale in accepting a settlement rather than issuing a Notice of Intent to Cancel. In addition, the major conclusions from EPA's detailed risk and benefits assessments of granular carbofuran are presented here in summary. More extensive discussion is available in a Technical Support Document, which is available upon request in the Office of Pesticide Programs [OPP] Public Docket from the contact person listed above. The Memorandum of Agreement in Principle is also in the OPP Docket and is available upon request.

II. Summary of Avian Risk Assessment

EPA evaluated the avian risk posed by granular carbofuran based on data describing toxicity, exposure, index of relative risk, field studies, bird poisoning incidents, ecological considerations, toxicity and relative risk of alternative pest control measures, and public comments. The complete revised risk assessment can be found in the Office of Pesticides Program's Docket. Where appropriate, EPA clarified and corrected the assessment published in the 1989 Technical Support Document.

The following summarize the major conclusions drawn from the risk assessment:

(1) Carbofuran is highly toxic to birds.

(2) One granule can kill a small bird.

(3) Proper agricultural use of carbofuran results in granules available to birds.

(4) Birds are directly exposed to carbofuran by picking up and ingesting granules. Predatory and scavenging birds are secondarily exposed when they eat the organisms that were directly exposed.

(5) Many birds have been killed by proper use of carbofuran. This is documented via field studies and over 80 separate poisoning incidents.

(6) Carbofuran presents a greater risk to birds than alternative chemical control methods.

(7) It has not been demonstrated that there are any conditions under which granular carbofuran can be used without presenting unreasonable risk.

III. Summary of the Benefits Analysis

The Benefits Analysis for the Preliminary Determination proposing cancellation included 10 sites: Corn, cotton, cranberries, peanuts, pineseed orchards, rice, sorghum, soybeans, sunflowers and tobacco. These sites represented 95 percent of granular carbofuran use. As a result of comments received in response to the Preliminary Determination, seven additional sites were evaluated: Alfalfa, bananas and plantains, cucurbits, peppers, spinach for seed, sugarbeets, and sweet corn. For a detailed analysis of the benefits of each site, refer to the appropriate "Draft Final Benefits Analysis" contained in the public docket on granular carbofuran.

FMC modified their labels in November, 1990, deleting all granular uses for Christmas trees, grapes, non-bearing fruit trees, potatoes, sugarcane and tobacco. A Notice pursuant to section 6(f) of FIFRA (the Federal Insecticide, Fungicide and Rodenticide Act) was published announcing the deletions on October 18, 1990. This Notice effectively concluded the Special Review for those sites.

The following is a summary of the major points from the benefits assessment:

(1) There are effective alternative pest control measures for most sites on which carbofuran is registered.

(2) For several of the sites analyzed (rice, cucurbits, pine progeny tests, bananas and spinach grown for seed) there are currently no known effective chemical or non-chemical alternatives to control key pests. Therefore, benefits on some or all of these sites may be high.

IV. Response to Public Comments

EPA presented its proposed decision on granular carbofuran at a public meeting of the FIFRA Scientific Advisory Panel (SAP). The SAP reviewed the Preliminary Determination and generally supported the Agency's determination to cancel all uses of granular carbofuran on agricultural crops to prevent unreasonable risk to avian populations. However, the Panel also stated that where there are no efficacious alternatives to granular carbofuran (i.e., rice, cranberries and pineseeds) and if the use of granular carbofuran can be demonstrated to be used without unacceptable risk to birds, use of granular carbofuran may be an acceptable means of insect and nematode control. The Agency agrees with the Panel's determinations, and notes that the settlement agreement is structured to provide some use of granular carbofuran on certain sites with no currently available alternatives

EPA also made the Preliminary Determination available to the USDA for comment. The Secretary of Agriculture commented that USDA did not concur with portions of the document which are intended to describe use patterns, formulations selected, and the severity of avian hazards associated with the commonplace use of carbofuran. USDA initiated their own benefits assessment and established a team of specialists to develop accurate information regarding the use of granular carbofuran. The Agency incorporated USDA's benefits assessment into it's analyses, where appropriate. In reference to their comments regarding the risks of granular carbofuran, USDA provided the Agency with further documentation of previously unreported bird kills, further supporting EPA's assertions that available data under represent the extent of the risk to avian species.

In addition to comments by the SAP and the USDA, EPA received a large number of public comments on the Preliminary Determination proposing cancellation of all uses of granular carbofuran. A number of commentors expressed the view that the Preliminary Determination understated the risks

associated with the use of granular carbofuran. A number of commentors expressed the view that the Preliminary Determination overstated the risks associated with the use of granular carbofuran, and/or understated the benefits associated with the use of granular carbofuran. Finally, a number of commentors disagreed with the proposal to cancel all uses of granular carbofuran, while a number of other commentors agreed with the proposal, in whole or in part.

Some of these commentors provided EPA with information which was useful in assessing the risks or benefits associated with the use of granular carbofuran. Other commentors provided information, the reliability of which could not be determined, which could be accorded only limited weight in the decisionmaking process. However, even comments which merely presented a point of view and little or no useful information, were considered. EPA's general response to these comments is that the best possible determinations concerning the risks and benefits associated with the use of granular carbofuran, given the available data, are the determinations summarized in Units II and III of this Notice, and that the regulatory decision outlined in Unit V of this notice is appropriate given these determinations. Detailed responses to the comments are appended to the Support Document for the Final Determination, which is available from the EPA contact person listed in the summary of this document.

V. Risk Benefit Assessment and Regulatory Options

In the Preliminary Determination, the Agency proposed to cancel all uses of granular carbofuran, based on a finding that the risk exceeded the benefits. As part of the regulatory process prior to the settlement agreement, EPA considered regulatory options other than full cancellation for granular carbofuran based on an evaluation of the risks and benefits for each site.

FMC's 1990 risk reduction plan was considered as a potential risk reduction measure to conclude the Special Review. After review of the plan, the Agency concluded that the plan did not go far enough to bring the risks of continued use of granular carbofuran into balance with the benefits.

Before the Agency completed its final determination, FMC Corporation, the sole registrant of granular carbofuran, requested meetings with EPA to explore further risk reduction measures in an attempt to conclude the Special Review (for full details see "Negotiation meeting minutes #1-6" in the OPP docket). The result of these meetings was the Agreement in Principle of May 13, 1991. The amendments to carbofuran registration submitted pursuant to the Agreement in Principle resolved the registration status of granular carbofuran products and provided the basis for conclusion of the Special Review.

The settlement provides that over the next four growing seasons, the use of granular carbofuran will be phased out completely, with the exception of five crops where minor amounts are used (less than 1 percent of all granular carbofuran used). Thus, beginning September 1, 1994, granular carbofuran will be labeled for use only on the following sites: bananas (in Hawaii only), cucurbits (pumpkins, cucumbers, watermelons, cantaloupes, and squash), dry-harvested cranberries, pine progeny tests and spinach grown for seed.

No more than a total of 4.5 million pounds of granular carbofuran will be sold in the United States over the next three "use" seasons (September 1, 1991 through August 31, 1994), with a special limit of no more than 400,000 lbs. to be sold during the 1994 use season (September 1, 1993 through August 31, 1994). The amount of granular carbofuran allowed to be sold for domestic use beginning September 1, 1994, will be limited to no more than 2,500 pounds per year.

Beginning September, 1991, the use of granular carbofuran will be prohibited in certain selected areas of sensitive geography. With the exception of the five minor use crops noted earlier, granular carbofuran may not be used in the following states: Maine, Connecticut, Massachusetts, New Hampshire, Vermont, Rhode Island, Maryland, Delaware, Virginia, and Florida. Carbofuran also will be banned in the coastal counties of North Carolina, South Carolina, Oregon and Washington, and will be prohibited from use on corn and sorghum in California.

Remaining stocks of granular carbofuran in the hands of growers and distributors labeled for use on corn and sorghum may be sold and used for 1 year after the deletions of those uses from the registrations (i.e., August 31, 1994). Similarly, granular carbofuran labeled for use on rice which is in the hands of distributors may only be sold and used until August 31, 1995. FMC submitted label amendments embodying the terms of the agreement.

EPA has determined that the agreement, and resulting label changes, brought the risks and benefits of granular carbofuran into balance such that the Special Review could be concluded. The elimination of the major use sites eliminated the risk associated with over 99 percent of the use of granular carbofuran. The sites that are remaining do not present unreasonable adverse effects when considered in light of the benefits associated with the uses, the small amount of use likely on those sites, extent of acres treated, the way in which the chemical is applied to those sites, and the stated limitation on use.

VI. Procedural Matters

This Notice announces EPA's final determination to conclude the Special Review of granular carbofuran based on the phase-down embodied in the negotiated settlement and amendments to registrations. These changes obviate the need for EPA to take further regulatory steps regarding granular carbofuran at this time.

As provided in the Agreement in Principle, in the summer or fall of 1993, prior to the effective date of the deletion from FMC's registration of granular carbofuran uses on corn and sorghum, EPA will provide FMC with the opportunity for a meeting with the Director of the Office of Pesticide Programs regarding the risks and benefits of those uses. If, in the discretion of the Director, and taking into account such public comments as he may receive, the Agency concludes that the benefits of use of granular carbofuran on either or both of these crops outweigh the risks, then EPA may permit FMC to amend the registration to permit the continued use of a product on any such crop, at levels, in locations, and for a duration to be determined by the Agency. FMC has waived any rights it had to appeal or challenge the Director's decision to an administrative law judge, the EPA Administrator, or the courts. Similarly, at either this meeting or, at EPA's discretion, in the fall of 1994, FMC and EPA will follow the same procedures with regard to the deletion of the rice use. Again, FMC has waived any rights it may have to challenge the Director's decision to an administrative law judge, the EPA Administrator, or the courts. Consistent with the importance of allowing the public to participate in such a process, any applications to modify the terms and conditions of registration submitted in connection with such meetings would be subject to the public comment provisions set forth in 40 CFR 154.35(c).

FMC has agreed that any applications for amendments to granular carbofuran registrations which it makes prior to August 31, 1994 may be denied by EPA without opportunity for hearing or other legal challenge. Any additional applications to amend any granular

carbofuran registration which FMC may submit after August 31, 1994 may be denied by EPA unless FMC has submitted substantial new evidence which materially changes the Agency's assessment of the risks and benefits of use of carbofuran and which was not available to either EPA or FMC at the time the application was submitted.

Dated: November 25, 1991.

Linda J. Fisher,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 91-29607 Filed 12-10-91; 8:45 am]

BILLING CODE 6560-50-F

[OPP-30328; FRL-4002-1]

Sandoz Crop Protection Corp.; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by January 10, 1992.

ADDRESSES: By mail submit comments identified by the document control number [OPP-30328] and the registration/file number to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Attention PM 22, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, Attention PM 22, Registration Division (H7505C), Environmental Protection Agency, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: PM 22, Cynthia Giles-Parker, rm. 251, CM #2, (703-305-5540).

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

I. Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 55947-RUN. Applicant: Sandoz Crop Protection Corp., 1300 E. Touhy Ave., Des Plaines, IL 60018. Product name: San 582H 7.5L Herbicide. Herbicide. Active ingredient: 2-Chloro-*N*-[(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethyl-thien-3-yl)-acetamide at 78.5 percent. Proposed classification/Use: General. For weed control in field corn. (PM 22)

2. File Symbol: 55947-RUR. Applicant: Sandoz Crop Protection Corp. Product name: San 582H. Herbicide. Active ingredient: 2-Chloro-*N*-[(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethyl-thien-3-yl)acetamide at 94.0 percent. Proposed classification/Use: None. For manufacturing use only. (PM 22)

Notice of approval or denial of an application to register a pesticide product will be announced in the Federal Register. The procedure for requesting data will be given in the Federal Register if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operations Division (PRPRB) office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the PRPRB office (703-305-5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

Dated: November 6, 1991.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 91-29495 Filed 12-10-91; 8:45 am]

BILLING CODE 6560-50-F

[OPP-60026; FRL-4004-5]

Intent to Suspend Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of issuance of notices of intent to suspend.

SUMMARY: This Notice, pursuant to section 6(f)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq., announces that EPA has issued Notices of Intent to Suspend pursuant to sections 3(c)(2)(B) and 4 of FIFRA. The Notices were issued following issuance of Section 4 Reregistration Requirements Notices by the Agency and the failure of registrants subject to the Section 4 Reregistration Requirements Notices to take appropriate steps to secure the data required to be submitted to the Agency. This Notice includes the text of a Notice of Intent to Suspend, absent specific chemical, product, or factual information. Table A of this Notice further identifies the registrants to whom the Notices of Intent to Suspend were issued, the date each Notice of Intent to Suspend was issued, the active ingredient(s) involved, and the EPA registration numbers and names of the registered product(s) which are affected by the Notices of Intent to Suspend. Moreover, Table B of this Notice identifies the basis upon which the Notices of Intent to Suspend were issued. Finally, matters pertaining to the timing of requests for hearing are specified in the Notices of Intent to Suspend and are governed by the deadlines specified in section 3(c)(2)(B). As required by section 6(f)(2), the Notices of Intent to Suspend were sent by certified mail, return receipt requested, to each affected registrant at its address of record.

FOR FURTHER INFORMATION CONTACT: Stephen L. Brozena, Office of Compliance Monitoring (EN-342), Laboratory Data Integrity Assurance Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (703) 308-8267.

SUPPLEMENTARY INFORMATION:

I. Text of a Notice of Intent to Suspend

The text of a Notice of Intent to Suspend, absent specific chemical, product, or factual information, follows:

United States Environmental Protection Agency

Office of Pesticides and Toxic Substances

Washington, DC 20460

Certified Mail

Return Receipt Requested

SUBJECT: Suspension of Registration of Pesticide Product(s) Containing _____ for Failure to Comply with the Section 4 Phase 5 Reregistration Eligibility Document Data Call-In Notice for _____ Dated _____.

Dear Sir/Madam:

This letter gives you notice that the pesticide product registrations listed in Attachment I will be suspended 30 days from your receipt of this letter unless you take steps within that time to prevent this Notice from automatically becoming a final and effective order of suspension. The Agency's authority for suspending the registrations of your products is section 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Upon becoming a final and effective order of suspension, any violation of the order will be an unlawful act under section 12(a)(2)(J) of FIFRA.

You are receiving this Notice of Intent to Suspend because you have failed to comply with the terms of the Phase 5 Reregistration Eligibility Document Data Call-In Notice imposed pursuant to sections 3(c)(2)(B) and 4(g)(2)(b) of FIFRA.

The specific basis for issuance of this Notice is stated in the Explanatory Appendix (Attachment III) to this Notice. Affected products and the requirements which you failed to satisfy are listed and described in the following three attachments:

Attachment I Suspension Report - Product List

Attachment II Suspension Report - Requirement List

Attachment III Suspension Report - Explanatory Appendix

The suspension of the registration of each product listed in Attachment I will become final unless at least one of the following actions is completed.

1. You may avoid suspension under this Notice if you or another person adversely affected by this Notice properly request a hearing within 30 days of your receipt of this Notice. If you request a hearing, it will be conducted in accordance with the requirements of section 6(d) of FIFRA and the Agency's procedural regulations in 40 CFR part 164.

Section 3(c)(2)(B), however, provides that the only allowable issues which may be addressed at the hearing are whether you have failed to take the actions which are the bases of this Notice and whether the Agency's decision regarding the disposition of existing stocks is consistent with FIFRA. Therefore, no substantive allegation or legal argument concerning other issues, including but not limited to the Agency's original decision to require the submission of data or other information, the need for or utility of any of the required data or other information or deadlines imposed, and the risks and benefits associated with continued registration of the affected product, may be considered in the proceeding. The Administrative Law Judge shall by order dismiss any objections which have no bearing on the allowable issues which may be considered in the proceeding.

Section 3(c)(2)(B)(iv) of FIFRA provides that any hearing must be held and a determination issued within 75 days after receipt of a hearing request. This 75-day period may not be extended unless all parties in the proceeding stipulate to such an extension. If a hearing is properly requested, the Agency will issue a final order at the conclusion of the hearing governing the suspension of your products.

A request for a hearing pursuant to this Notice must (1) include specific objections which pertain to the allowable issues which may be heard at the hearing, (2) identify the registrations for which a hearing is requested, and (3) set forth all necessary supporting facts pertaining to any of the objections which you have identified in your request for a hearing. If a hearing is requested by any person other than the registrant, that person must also state specifically why he asserts that he would be adversely affected by the suspension action described in this Notice. Three copies of the request must be submitted to: Hearing Clerk, A-110, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, and an additional copy should be sent to the signatory listed below. The request must be *received* by the Hearing Clerk by the 30th day from your receipt of this Notice in order to be legally effective. The 30-day time limit is established by FIFRA and cannot be extended for any reason. Failure to meet the 30-day time limit will result in automatic suspension of your registration(s) by operation of law and, under such circumstances, the suspension of the registration for your affected product(s) will be final and effective at the close of business 30 days after your receipt of this Notice and will not be subject to further administrative review.

The Agency's Rules of Practice at 40 CFR 164.7 forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives. Accordingly, the following EPA offices, and the staffs thereof, are designated as judicial staff to perform the judicial function of EPA in any administrative hearings on this Notice of Intent to Suspend: The Office of the Administrative Law Judges, the Office of the Judicial Officer, the Administrator, the Deputy Administrator, and the members of the staff in the immediate offices of the Administrator and Deputy Administrator. None of the persons designated as the judicial staff shall have any *ex parte* communication with trial staff or any other interested person not employed by EPA on the merits of any of the issues involved in this proceeding, without fully complying with the applicable regulations.

2. You may also avoid suspension if, within 30 days of your receipt of this Notice, the Agency determines that you have taken appropriate steps to comply with the section 4 Phase 5 Reregistration Eligibility Document Data Call-In Notice requirements. In order to avoid suspension under this option, you must satisfactorily comply with Attachment II, Requirement List, for each product by submitting all required supporting data/information described in Attachment II and in the Explanatory Appendix (Attachment III) to the following address (preferably by certified mail):

Office of Compliance Monitoring (EN-342), Laboratory Data Integrity Assurance Division, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

For you to avoid automatic suspension under this Notice, the Agency must also determine within the applicable 30-day period that you have satisfied the requirements that are the bases of this Notice and so notify you in writing. You should submit the necessary data/information as quickly as possible for there to be any chance the Agency will be able to make the necessary determination in time to avoid suspension of your product(s).

The suspension of the registration(s) of your company's product(s) pursuant to this Notice will be rescinded when

the Agency determines you have complied fully with the requirements which were the bases of this Notice. Such compliance may only be achieved by submission of the data/information described in the attachments to the signatory below.

Your product will remain suspended, however, until the Agency determines you are in compliance with the requirements which are the bases of this Notice and so informs you in writing.

After the suspension becomes final and effective, the registrant subject to this Notice, including all supplemental registrants of product(s) listed in Attachment I, may not legally distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I.

Persons other than the registrant subject to this Notice, as defined in the preceding sentence, may continue to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I.

Nothing in this Notice authorizes any person to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I in any manner which would have been unlawful prior to the suspension.

If the registrations of your products listed in Attachment I are currently suspended as a result of failure to comply with another section 4 Data Requirements Notice or section 3(c)(2)(B) Data Call-In Notice, this Notice, when it becomes a final and effective order of suspension, will be in addition to any existing suspension, i.e., all requirements which are the bases of the suspension must be satisfied before the registration will be reinstated.

You are reminded that it is your responsibility as the basic registrant to notify all supplementary registered distributors of your basic registered product that this suspension action also applies to their supplementary registered products and that you may be held liable for violations committed by your distributors. If you have any questions about the requirements and procedures set forth in this suspension notice or in the subject section 4 Phase 5 Reregistration Eligibility Document Data Call-In Notice, please contact Stephen L. Brozena at (703) 308–8267.

Sincerely yours,

Director, Office of Compliance Monitoring

Attachments:

Attachment I - Product List

Attachment II - Requirement List

Attachment III - Explanatory Appendix

II. Registrants Receiving and Affected by Notices of Intent to Suspend; Date of Issuance; Active Ingredient and Products Affected

The following is a list of products for which a letter of notification has been sent:

TABLE A—LIST OF PRODUCTS

Registrant Affected	EPA Registration Number	Active Ingredient	Name of Product	Date Issued
Alljack & Co.	04958500007	Sulfur	Chacon Fruit & Vegetable Dust	11/8/91
	04958500008	Sulfur	Chacon Rose & Flower Dust Multipur. Insect. F	11/8/91
Atochem North America, Inc.	00458100373	Sulfur	Microthiol Special	11/8/91
BREA Agricultural Service, Inc.	00901800008	Sulfur	BREA Dusting Sulfur	11/8/91
Dean Jerry Exterminating Co.	01797500001	Warfarin/Warfarin Salt	Dean's Rat & Mouse Bait	11/8/91
Furst McNess Company	00130400019	Warfarin/Warfarin Salt	McNess Ready-to-Use Rat and Mouse Killer	11/8/91
Ford's Chemical and Service, Inc.	01037000119	Warfarin/Warfarin Salt	Staffel's Rats-N-Mice Killer	11/8/91
	01037000120	Warfarin/Warfarin Salt	Staffel's Rats-N-Mice Bait	11/8/91
Good-Way Insecticide Inc.	00200600043	Warfarin/Warfarin Salt	Good-Way Prolin Anticoagulant Rodenticide Rat	11/8/91
Goulds Dell Products	00665300001	Warfarin/Warfarin Salt	Sylvan Dell Brand Flavorized Rat Kakes	11/8/91
Hilliard Products Inc.	00858000001	Warfarin/Warfarin Salt	Endo Rat Improved Killer Kakes	11/8/91
J.R. Coder Co.	04572200001	Warfarin/Warfarin Salt	Rat Toxin	11/8/91
R & M Exterm Inc.	00427100007	Warfarin/Warfarin Salt	Rat and Mouse Killer	11/8/91
RMC Prod Company	00727600001	Warfarin/Warfarin Salt	New RMC Bait Kills Rats/Mice with Prolin	11/8/91
	00727600008	Warfarin/Warfarin Salt	RMC Soluble Prolin Kills Rats & Mice	11/8/91
	00727600011	Warfarin/Warfarin Salt	RMC Super Bar	11/8/91
	00727600014	Warfarin/Warfarin Salt	RMC Rodent Bait Kills Rats & Mice Throw Pac	11/8/91
	00727600016	Warfarin/Warfarin Salt	RMC Rodent Bait Meat	11/8/91
	00727600017	Warfarin/Warfarin Salt	RMC Meat Bait	11/8/91
Safeguard Chemical Corp.	00884800002	Warfarin/Warfarin Salt	Safeguard Brand Mouse & Rat Killer	11/8/91
San Joaquin Sulfur Company, Inc.	01116900006	Sulfur	BT Sulfur 15-50 Dust	11/8/91
	01116900008	Sulfur	Valor Brand Products Dithane M-45-S Dust	11/8/91
	01116900009	Sulfur	Valor Brand Products Dusting Sulfur	11/8/91
	01116900011	Sulfur	Valor Brand Products Maneb Sulfur Dust	11/8/91
Schall Chemical Inc.	00346800028	Sulfur	Thiodan Sulfur	11/8/91
Southern Agricultural Insecticides, Inc.	00082900163	Sulfur	SA-50 Wettable or Dusting Sulfur	11/8/91
	00082900236	Sulfur	SA-50 Fruit Spray Concentrate	11/8/91
The Archem Corp.	00712200035	Warfarin/Warfarin Salt	ARCO Rat & Mouse Bait Anticoagulant-Ready-to-Use	11/8/91
The Land Epcot Center	FL84000900	Sulfur	SA-50 Wettable or Dusting Sulfur	11/8/91
Wallace C. Tharp	00633000013	Sulfur	Perma-Guard Dust 40% Sulphur D-40	11/8/91
	00633000014	Sulfur	Perma-Guard Dust 20% Sulphur D-41	11/8/91
	00633000015	Sulfur	Perma-Guard Dust 10% Sulphur D-42	11/8/91

III. Basis for Issuance of Notice of Intent; Requirement List

The following companies failed to submit the following required data or information:

TABLE B—LIST OF REQUIREMENTS

Active Ingredient	Registrant Affected	Requirement Name	Original Due-Date
Warfarin/Warfarin Salt	Furst McNess Company	90-Day Response	9/12/91
	Good-Way Insecticide Inc.	90-Day Response	9/13/91
	R & M Exterm Inc.	90-Day Response	9/13/91
	Goulds Dell Products	90-Day Response	9/10/91
	The Archem Corp.	90-Day Response	9/9/91
	RMC Prod Company	90-Day Response	9/9/91
	Hilliard Products Inc.	90-Day Response	9/10/91
	Safeguard Chemical Corp.	90-Day Response	9/12/91
	Ford's Chemical and Service, Inc.	90-Day Response	9/10/91
	Dean Jerry Exterminating Co.	90-Day Response	9/10/91
	J.R. Coder Co.	90-Day Response	9/12/91
Sulfur	Alljack & Co.	90-Day Response	7/19/91
	BREA Agricultural Service, Inc.	90-Day Response	7/23/91
	The Land Epcot Center	90-Day Response	7/19/91
	Atochem North America, Inc.	90-Day Response	7/21/91
	San Joaquin Sulphur Company, Inc.	90-Day Response	7/21/91
	Schall Chemical Inc.	90-Day Response	7/19/91
	Wallace C. Tharp	90-Day Response	7/21/91
	Southern Agricultural Insecticides, Inc.	90-Day Response	7/17/91

IV. Attachment III Suspension Report--Explanatory Appendix

A discussion of the basis for the Notice of Intent to Suspend follows:

A. Warfarin/Warfarin Salt

On June 6, 1991, EPA issued the Phase 5 Reregistration Eligibility Document Data Call-In Notice imposed pursuant to sections 3(c)(2)(B) and 4(g)(2)(B) of FIFRA which required registrants of products containing warfarin/warfarin salt used as an active ingredient to develop and submit certain data. These data were determined to be necessary to satisfy reregistration data requirements of section 4(g). Failure to comply with the requirements of a Phase 5 Reregistration Eligibility Document Data Call-In Notice is a basis for suspension under section 3(c)(2)(B) of FIFRA.

The Warfarin/Warfarin Salt Phase 5 Reregistration Eligibility Document Data Call-In Notice dated June 6, 1991, required each affected registrant to submit materials relating to the election of the options to address each of the data requirements. That submission was required to be received by the Agency within 90 days of the registrant's receipt of the Notice. Because the Agency has not received a response from you as a warfarin/warfarin salt registrant to undertake the required testing or any other appropriate response, the Agency is initiating through this Notice of Intent to Suspend the actions which FIFRA requires it to take under these circumstances.

B. Sulfur

On April 16, 1991, EPA issued the Phase 5 Reregistration Eligibility Document Data Call-In Notice imposed pursuant to sections 3(c)(2)(B) and 4(g)(2)(B) of FIFRA which required registrants of products containing sulfur used as an active ingredient to develop and submit certain data. These data were determined to be necessary to satisfy reregistration data requirements of section 4(g). Failure to comply with the requirements of a Phase 5 Reregistration Eligibility Document Data Call-In Notice is a basis for suspension under section 3(c)(2)(B) of FIFRA.

The Sulfur Phase 5 Reregistration Eligibility Document Data Call-In Notice dated April 16, 1991, required each affected registrant to submit materials relating to the election of the options to address each of the data requirements. That submission was required to be received by the Agency within 90 days of the registrant's receipt of the Notice. Because the Agency has not received a response from you as a sulfur registrant to undertake the required testing or any other appropriate response, the Agency is initiating through this Notice of Intent to Suspend the actions which FIFRA requires it to take under these circumstances.

V. Conclusions

EPA has issued Notices of Intent to Suspend on the dates indicated. Any further information regarding these Notices may be obtained from the contact person noted above.

Dated: November 27, 1991.

Michael M. Stahl,

Director, Office of Compliance Monitoring.

[FR Doc. 91-29609 Filed 12-10-91; 8:45 am]

BILLING CODE 6560-50-F

[OPTS-59925; FRL 4007-4]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the Federal Register of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 3 such PMN(s) and provides a summary of each.

DATES: Close of review periods:
Y 92–64, December 12, 1991.
Y 92–65, 92–66, December 15, 1991.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS–799), Office of Toxic Substances, Environmental Protection Agency, rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, NE–G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Y 92–64

Importer. Mitsubishi Kasei America Inc.
Chemical. (G) Polycarbonate.
Use/Import. (G) Copying material. Import range: 300–400 kg/yr.
Toxicity Data. Mutagenicity: negative.

Y 92–65

Manufacturer. NX International Inc.
Chemical. (G) Polymer of styrene, methacrylic acid, methyl methacrylate 2-(2-ethoxyethoxy) ethanol, and maleic anhydride.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

Y 92–66

Manufacturer. Confidential.
Chemical. (S) Cyclic resin fomers; dicyclopenadione; aromatic napha; para-tent butylphenol rosole.
Use/Production. (S) Printing ink vehicle. Prod. range: 80,000–90,000 kg/yr.

Dated: December 5, 1991.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91–29610 Filed 12–10–91; 8:45 am]
BILLING CODE 6560–50–F

[OPTS–51778; FRL 4007–3]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 27 such PMNs and provides a summary of each.

DATES: Close of review periods:
P 92–194, 92–195, February 4, 1992.
P 92–196, 92–197, February 5, 1992.
P 92–198, 92–199, 92–200, February 9, 1992.
P 92–215, 92–216, 92–217, February 12, 1992.
P 92–218, 92–219, 92–220, 92–221, 92–222, February 15, 1992.
P 92–223, 92–224, 92–225, 92–226, 92–227, 92–228, 92–229, February 16, 1992.
P 92–230, 92–231, 92–233, February 17, 1992.
P 92–234, 92–235, February 18, 1992.

Written comments by:
P 92–194, 92–195, January 5, 1992.
P 92–196, 92–197, January 6, 1992.
P 92–198, 92–199, 92–200, January 10, 1992.
P 92–215, 92–216, 92–217, January 13, 1992.
P 92–218, 92–219, 92–220, 92–221, 92–222, January 16, 1992.
P 92–223, 92–224, 92–225, 92–226, 92–227, 92–228, 92–229, January 17, 1992.
P 92–230, 92–231, 92–233, January 18, 1992.
P 92–234, 92–235, January 19, 1992.

ADDRESSES: Written comments, identified by the document control number "(OPTS–51780)" and the specific PMN number should be sent to: Document Processing Center (TS–790), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Rm. L–100, Washington, DC, 20460, (202) 260–3532.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460 (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office NE G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 92–194

Importer. E.I. Du Pont De Nemours & Co.
Chemical. (G) Acetal resin.
Use/Import. (G) Film forming polymer. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit).

P 92–195

Manufacturer. Confidential.
Chemical. (G) Silicate compound.
Use/Production. (G) Metal treatment chemical. Prod. range: Confidential.

P 92–196

Importer. Confidential.
Chemical. (S) Cyclohexanol,2-(1,1-dimethyl-ethyl)-4-methyl-, acetate.
Use/Import. (S) Perfumer chemical. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Mutagenicity: negative. Skin sensitization: negative species (guinea pig).

P 92–197

Importer. Confidential.
Chemical. (G) Aroma chemical.
Use/Import. (G) Aroma chemical. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 2,200 mg/kg species (rat). Static acute toxicity: time EC50 48h12.63 mg/l species (daphnia magna). Eye irritation: moderate species (rabbit). Skin irritation: slight species (rabbit). Mutagenicity: negative. Skin sensitization: positive species (guinea pig).

P 92–198

Manufacturer. Confidential.
Chemical. (G) Vinyl acrylic copolymer.
Use/Production. (G) Binder ingredient. Prod. range: Confidential.
Toxicity Data. Skin sensitization: positive species (guinea pig).

P 92–199

Manufacturer. Akzo-Lanchem.
Chemical. (G) Polyurethane polyol.
Use/Production. (S) Resin used to manufacture industrial coatings. Prod. range: Confidential.

P 92–200

Manufacturer. R.T.Vanderbilt Company, Inc.
Chemical. (G) Barium alkylarylsulfonate.
Use/Production. (S) Corrosion inhibitor for lubricants. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Skin irritation: moderate species (rabbit).

P 92-215

Importer. Confidential.
Chemical. (G) Diurea.
Use/Import. (G) Paint. Import range: Confidential.

P 92-216

Manufacturer. Confidential.
Chemical. (G) Reaction product of polyisocyanate and polyols.
Use/Production. (G) Reactive elastomer. Prod. range: Confidential.

P 92-217

Manufacturer. The B.F. Goodrich Company.
Chemical. (S) 3-Cyclohexan-1-carbonitrile.
Use/Production. (S) Source of energy and hydrogen molecular. Prod. range: 137,000 kg/yr.

P 92-218

Manufacturer. Confidential.
Chemical. (G) Amine salt of carboxy modified polymer.
Use/Production. (S) Catalyst for polyurethane foam. Prod. range: Confidential.

P 92-219

Manufacturer. International Lubricants , Inc.
Chemical. (S) Telomerized rapeseed oil (low molecular weight polymer).
Use/Production. (S) Additive for lubricants. Prod. range: 1,000–50,000 kg/yr.

P 92-220

Manufacturer. International Lubricants.
Chemical. (S) Telomerized corn oil(low molecular weight polymer).
Use/Production. (S) Basestock for lubricants. Prod. range: 1,000–50,000 kg/yr.

P 92-221

Manufacturer. International Lubricants, Inc.
Chemical. (S) Telomerized safflower oil(low molecular weight polymer).
Use/Production. (S) Basestock for lubricants. Prod. range: 1,000–50,000 kg/yr.

P 92-222

Manufacturer. International Lubricants, Inc.
Chemical. (S) Dibutyl phosphate adduct of telomerized rapeseed oil (low molecular weight polymer).
Use/Production. (S) Additive for lubricants. Prod. range: 1,000–10,000 kg/yr.

P 92-223

Importer. Confidential.
Chemical. (G) Modified polyamine terepetalate.
Use/Import. (G) Resin for photocopy process. Import range: Confidential.

P 92-224

Importer. Nagase America Corporation.
Chemical. (S) 2-(4-(3-Ethoxypropyl)ethylamino)-2-hydroxybenzoic acid.
Use/Import. (S) Raw material for fluorantype color former. Import range: Confidential.
Toxicity Data. Mutagenicity: negative.

P 92-225

Importer. Nagase America Corporatiomn.
Chemical. (S) 2-(4-(dipentylamino)-2-hydroxybenzenyl)benzoic acid.
Use/Import. (G) . Import range: Confidential.
Toxicity Data. Mutagenicity: negative.

P 92-226

Importer. Basf Corporation.
Chemical. (G) Condensation polymer of an aromatic sulfonic acid, urea, aliphatic aldehyde and a cyclic acid, amide salt.
Use/Import. (G) Leather manufacture. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 10,000 mg/kg species (rat). Static acute toxicity: time LC50 96h1,600 ppm species (golden orfe). Eye irritation: none species (rabbit). Skin irritation: none species (rabbit).

P 92-227

Manufacturer. Bedoukian Research, Inc.
Chemical. (G) Trialkoxy substituted alkane.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 92-228

Manufacturer. Confidential.
Chemical. (G) 2-Ethyl-2-hydroxymethyl-1,3-propanediol, mixed ester with straight chain and branched C_6 and C_9 fatty acids.
Use/Production. (G) Synthetic industrial lubricant. Prod. range: Confidential.

P 92-229

Importer. Confidential.
Chemical. (G) Trimellitateter.
Use/Import. (G) Lubricant. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: slight species (rabbit)

P 92-230

Manufacturer. Confidential.
Chemical. (G) Polyurethane.
Use/Production. (S) Adhesive/coating. Prod. range: Confidential.

P 92-231

Manufacturer. Confidential.
Chemical. (G) Polyurethane.
Use/Production. (S) Adhesive/coating. Prod. range: Confidential.

P 92-233

Manufacturer. Confidential.
Chemical. (G) Alkenone, trialkycycloalkenyl, dimethyl acetal.
Use/Production. (S) Site limited intermediate. Prod. range: Confidential.

P 92-234

Manufacturer. Confidential.
Chemical. (G) Blocked polyether polyurethane.
Use/Production. (S) Adhesion promoter for pvc chip coatings. Prod. range: Confidential.

P 92-235

Manufacturer. Akzo Lanchem.
Chemical. (G) Polyester resin solution.
Use/Production. (S) Resin used to manufacture industrial coatings. Prod. range: Confidential.

Dated: December 5, 1991.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91-29611 Filed 12-10-91; 8:45 am]
BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

[PR Docket No. 91-282; DA 91-1490]

Private Land Mobile Radio Services; Utah Public Safety Plan

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Chief, Private Radio Bureau and the Chief Engineer released this Order accepting the Public Safety Radio Plan for Utah (Region 41). As a result of accepting the Plan for Region 41, licensing of the 821–824/866–869 MHz band in that region may begin immediately.

EFFECTIVE DATE: December 4, 1991.

FOR FURTHER INFORMATION CONTACT: Betty Woolford, Private Radio Bureau, Policy and Planning Branch, (202) 632-6497.

SUPPLEMENTARY INFORMATION:

Order

Adopted: November 27, 1991.
Released: December 4, 1991.

By the Chief, Private Radio Bureau and the Chief Engineer:

1. On June 24, 1991, Region 41 (Utah) submitted its public safety plan to the Commission for review. The plan sets forth the guidelines to be followed in allotting spectrum to meet current and future mobile communications requirements of the public safety and special emergency entities operating in Utah. On September 17, 1991, Utah filed revisions to the plan, based on conversations with the Commission's staff.

2. The Utah plan was placed on Public Notice for comments on September 27, 1991, 56 FR 50333 (October 4, 1991). The Commission received no comments in this proceeding.

3. We have reviewed the plan submitted for Utah and find that it conforms with the National Public Safety Plan. The plan includes all the necessary elements specified in the Report and Order in Gen. Docket No. 87-112, 3 FCC Rcd 905 (1987), and satisfactorily provides for the current and projected mobile communications requirements of the public safety and special emergency entities in Utah.

4. Therefore, we accept the Utah Public Safety Radio Plan. Furthermore, licensing of the 821-824/866-869 MHz band in Utah may commence immediately.

Federal Communications Commission.
Ralph A. Haller,
Chief, Private Radio Bureau.
[FR Doc. 91-29621 Filed 12-10-91; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Port Authority of New York and New Jersey, et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 15 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200542-001.
Title: Port Authority of New York and New Jersey/Sea-Land Services, Inc. Agreement.
Parties: Port Authority of New York and New Jersey Sea-Land Services, Inc.
Synopsis: The Agreement, filed November 27, 1991, provides for an extension of the period of the permission granted Sea-Land Services, Inc. to use and occupy up to approximately twenty-four acres of open area at the Elizabeth-Port Authority Marine Terminal for the storage of containers and chassis. The permission period is extended for up to five calendar months following the effective date of the Agreement.

Agreement No.: 224-200597.
Title: Husky Terminal and Stevedoring, Inc. Agreement.
Parties: Cooper/T. Smith Stevedoring Company, Inc. International Transportation Service, Inc.
Synopsis: The Agreement, filed November 29, 1991, provides for the maintenance of a separate and distinct entity for the purpose of providing stevedoring and terminal services in the Pacific Northwest of the United States. The new entity, a joint venture arrangement, will fix its own rates and adhere to the port of Tacoma or other tariffs where applicable.

By Order of the Federal Maritime Commission.
Dated: December 5, 1991.
Joseph C. Polking,
Secretary.
[FR Doc. 91-29558 Filed 12-10-91; 9:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

[Docket No. 7100-0128]

Bank Holding Company Reporting Requirements

AGENCY: Board of Governors of the Federal Reserve System
ACTION: Agency Forms Under Review

BACKGROUND: Notice is hereby given of preliminary approval and a request for public comment by the Board of Governors of the Federal Reserve System of changes to the bank holding company reporting requirements identified below, under delegated authority from the Office of Management and Budget (OMB), as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public.) The changes to the reporting requirements are to be effective with the March 31, 1992, reporting date.

DATES: Comments must be submitted on or before January 8, 1992.

ADDRESSES: Comments, which should refer to the OMB Docket number should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 a.m.and 5:15 p.m., except as provided in § 261.8(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3208, Washington, DC 20503.

SUMMARY: Under the Bank Holding Company Act of 1956, as amended, the Board is responsible for the supervision and regulation of all bank holding companies. The Board has given initial approval to the revisions of the Consolidated Financial Statements for Bank Holding Companies with Total Consolidated Assets of $150 Million or More or with More Than One Subsidiary Bank (FR Y-9C; OMB No. 7100-0128) as well as two other bank holding company reports.[1] The Federal Reserve proposes to collect twelve new line items on the Consolidated Financial Statements (FR Y-9C). In addition, the Federal Reserve proposes to merge the two versions of Schedule HC-B, Loans and Lease Financing Receivables, into one version and to merge the abbreviated version of Schedule HC-I with the more detailed version of Schedule HC-I, Risk-Based Capital, for holding companies with total consolidated assets of $1 billion or more. The clarifications proposed for the other reports would result in three new reporting items.

In addition, if the Federal Financial Examination Council revises the commercial bank Reports of Condition and Income for the March 1992 reporting date, the Federal Reserve will submit a

[1] The other reports being revised are the Parent Company Only Financial Statements for Bank Holding Companies With Total Consolidated Assets of $150 Million or More, or With More Than One Subsidiary Bank (FR Y-9LP; OMB No. 7100-0128) and the Parent Company Only Financial Statements for One Bank Holding Companies with Total Consolidated Assets of Less Than $150 Million (FR Y9SP; OMB No. 7100-0128).

separate proposal to make comparable revisions, where applicable, for the March 1992 FR Y-9C reporting date. The additional modifications would reflect the Board's policy of maintaining, to the extent possible, bank holding company reporting requirements that are consistent with the commercial bank reports.

Revisions Approved under OMB Delegated Authority—the Approval of the Collection of the Following Reports

1. *FR Y-9C* (OMB No. 7100-0128), Consolidated Financial Statements for Bank Holding Companies with Total Consolidated Assets of $150 million or More, or With More Than One Subsidiary Bank;

This report is to be filed by all bank holding companies that have total consolidated assets of $150 million or more *and* by all multibank holding companies regardless of size. The following bank holding companies are exempt from filing the FR Y-9C, unless the Board specifically requires an exempt company to file the report: bank holding companies that are subsidiaries of another bank holding company *and* have total consolidated assets of less than $1 billion; bank holding companies that have been granted a hardship exemption by the Board under section 4(d) of the Bank Holding Company Act; and foreign banking organizations as defined by § 211.23(b) of Regulation K. The revised report is to be implemented on a quarterly basis as of March 31, 1992, with a submission date of 45 days after the "as of" date.

Report Title: Consolidated Financial Statements for Bank Holding Companies with Total Consolidated Assets of $150 million or More, or With More Than One Subsidiary Bank.

Agency Form Number: FR Y-9C
OMB Docket Number: 7100-0128
Frequency: Quarterly
Reporters: Bank Holding Companies
Annual Reporting Hours: 180,528
Estimated Average Hours per Response: Range from 5 to 1,200 hours
Number of Respondents: 1,686
Small businesses are affected.

The information collection is mandatory (12 U.S.C. 1844) and part of the information is given confidential treatment. Confidential treatment is not routinely given to the remaining information on the form. However, confidential treatment for the remaining information, in whole or in part, can be requested in accordance with the instructions to the form.

2. *FR Y-9LP* (OMB No. 7100-0128), Parent Company Only Financial Statements for Bank Holding Companies with Total Consolidated Assets of $150 million or More, or With More Than One Subsidiary Bank;

This report is to be filed on a parent company only basis by all bank holding companies that have total consolidated assets of $150 million or more, or have more than one subsidiary bank. Bank holding companies of any size that are controlled by another bank holding company that has total consolidated assets of $150 million or more, or have more than one subsidiary bank must file the FR Y-9LP. The following bank holding companies are exempt from filing the FR Y-9LP, unless the Board specifically requires an exempt company to file the report: bank holding companies that have been granted a hardship exemption by the Board under section 4(d) of the Bank Holding Company Act and foreign banking organizations as defined by § 211.23(b) of Regulation K. This report is to be submitted with the consolidated financial statements required above. The revised report is to be implemented on a quarterly basis as of March 31, 1992, with a submission date of 45 days after the "as of" date.

Report Title: Parent Company Only Financial Statements for Bank Holding Companies with Total Consolidated Assets of $150 Million or More, or With More Than One Subsidiary Bank.

Agency Form Number: FR Y-9LP
OMB Docket Number: 7100-0128
Frequency: Quarterly
Reporters: Bank Holding Companies
Annual Reporting Hours: 32,474
Estimated Average Hours per Response: Range from 2 to 13.5 hours
Number of Respondents: 1,933
Small businesses are affected.

The information collection is mandatory (12 U.S.C. 1844). Confidential treatment is not routinely given to the information on the form. However, confidential treatment for the information can be requested in accordance with the instructions to the form.

3. *FR Y-9SP* (OMB No. 7100-0128), Parent Company Only Financial Statements for One Bank Holding Companies With Total Consolidated Assets of Less Than $150 Million;

This report is to be filed by all one-bank holding companies with total consolidated assets of less than $150 million. The revised report is to be implemented on a semi-annual basis as of June 30, 1992, with a submission date of 45 days after the "as of" date. The following bank holding companies are exempt from filing the FR Y-9SP, unless the Board specifically requires an exempt company to file the report: bank holding companies that have been granted a hardship exemption by the Board under section 4(d) of the Bank Holding Company Act and foreign banking organizations as defined by § 211.23(b) of Regulation K.

Report Title: Parent Company Only Financial Statements for One Bank Holding Companies With Total Consolidated Assets of Less Than $150 Million.

Agency Form Number: FR Y-9SP
OMB Docket Number: 100-0128
Frequency: Semiannual
Reporters: Bank Holding Companies
Annual Reporting Hours: 28,854
Estimated Average Hours per Response: Range from 1.5 to 6.0 hours
Number of Respondents: 4,439
Small businesses are affected.

The information collection is mandatory (12 U.S.C. 1844). Confidential treatment is not routinely given to the information on the form. However, confidential treatment for the information can be requested in accordance with the instructions to the form.

FOR FURTHER INFORMATION CONTACT: Stephen M. Lovette, Manager, Policy Implementation, Division of Banking Supervision and Regulation (202/452-3622) or Arleen Lustig, Supervisory Financial Analyst, Division of Banking Supervision and Regulation (202/452-2987). The following individuals may be contacted with respect to issues related to the Paperwork Reduction Act of 1980: Stephen Siciliano, Special Assistant to the General Counsel for Administrative Law, Legal Division, (202/452-3920); Frederick J. Schroeder, Chief, Financial Reports, Division of Research and Statistics (202-452-3829); and Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3208, Washington, DC 20503.

SUPPLEMENTARY INFORMATION: The Board of Governors of the Federal Reserve System has given preliminary approval under delegated authority from the Office of Management and Budget (OMB) to the revisions in the following reports. The reports are:

1. *FR Y-9C* (OMB No. 7100-0128), the Consolidated Financial Statements for Bank Holding Companies With Total Consolidated Assets of $150 Million or More or With More Than One Subsidiary Bank;

2. *FR Y-9LP* (OMB No. 7100-0128), the Parent Company Only Financial Statements for Bank Holding Companies With Total Consolidated Assets of $150 Million or More, or With More Than One Subsidiary Bank;

3. *FR Y-9SP* (OMB No. 7100-0128), the Parent Company Only Financial

Statements for One Bank Holding Companies With Total Consolidated Assets of Less Than $150 Million.

The FR Y-9C consolidated financial statements are filed by the large bank holding companies and those with more than one subsidiary bank. The report includes a balance sheet, income statement, and statement of changes in equity capital with supporting schedules providing information on securities, loans, highly-leveraged transactions, risk-based capital, deposits, interest sensitivity, average balances, off-balance sheet activities, past due loans, and loan charge-offs and recoveries. The parent company statement, FR Y-9LP, is filed by the large companies that also file the FR Y-9C. The FR Y-9LP contains a balance sheet and income statement with a supporting schedule on investments in subsidiaries, a statement of cash flows and other selected items. The parent company statement, FR Y-9SP, is filed by one bank holding companies with total consolidated assets of less than $150 million. The FR Y-9SP contains a balance sheet and income statement. The reporting requirements approved by the Board are listed above under *Proposal Approved under OMB Delegated Authority--the Approval of the Collection of the Following Reports.*

The FR Y-9 reports historically have been, and continue to be, the primary source of financial information on bank holding companies and their nonbanking activities between on-site inspections. Financial information, as well as ratios developed from the Y series of reports, are used to detect emerging financial problems, to review performance for pre-inspection analyses, to evaluate bank holding company mergers and acquisitions, and to analyze a holding company's overall financial condition and performance as part of the Federal Reserve System's overall analytical effort. The revisions to the bank holding company reporting requirements over the last several years have been directed towards (a) strengthening the Federal Reserve's ability to monitor risk-taking between on-site inspections, (b) identifying supervisory problems at an earlier stage, and (c) monitoring the bank holding companies' capital adequacy.

The Federal Reserve proposes to add several new line items to the FR Y reports. The added information provided by these items will enable the Federal Reserve to adjust the calculations for risk-based capital in accordance with the technical amendments to the Risk-Based Capital Guidelines (12 CFR 225 appendix A) approved by the Federal Reserve in August 1991 and to calculate the leverage ratio for bank holding companies with Section 20 securities underwriting subsidiaries. Moreover, the additional items will provide the Federal Reserve with information needed to respond to Congressional questions and to establish statistical support for supervisory decisions.

On the FR Y-9C, the Federal Reserve also proposes to merge the abbreviated Schedule HC-I, Risk-Based Capital, for holding companies with consolidated assets between $150 million and $1 billion with the version of Schedule HC-I for companies of $1 billion or more and to merge the two versions of Schedule HC-B, Loans and Lease Financing Receivables, to simplify reporting and analysis of the data.

Report Form Revisions

FR Y-9C

The Board has approved the following changes to the consolidated bank holding company financial statements (FR Y-9C):

1.Merge the following schedules:

a. Combine the two versions of Schedule HC-B, Loans and Lease Financing Receivables. Bank holding companies with domestic offices only would be required to submit the version of Schedule HC-B now filed by holding companies with domestic and foreign offices.

b. Combine the abbreviated version of Schedule HC-I, Risk-Based Capital Abbreviated, with the version of Schedule HC-I for bank holding companies with total consolidated assets of $1 billion or more. All top-tier bank holding companies with total consolidated assets of $150 million or more would be required to submit the more detailed version of Schedule HC-I.

2. Add a line item to each of the memoranda sections of Schedules HC-A, Securities, and HC-B, Loans and Lease Financing Receivables as follows:

a. "Debt securities restructured and in compliance with modified terms if the restructured obligation yields a market rate," and

b. "Loans and lease financing receivables restructured and in compliance with modified terms if the restructured obligation yields a market rate."

3. Add three memoranda items to Schedule HC-F, Off-Balance Sheet Items:

a. "Mortgages sold with recourse that incur no capital charge."

b. "Mortgages sold with recourse prior to October 12, 1990."

c. "Participations in unused commitments."

4. Add three line items to Schedule HC-G, Memoranda:

a. Add an item, to be completed only by the top-tier bank holding company, that will request confirmation that all reportable changes in holding company structure have been reported on the Bank Holding Company Report of Changes in Investments and Activities (FR Y-6A; OMB No. 7100-0124) and a name of an official of the BHC responsible for confirmation.

b. Add a free form item to collect information on assets (other than cash items in process of collection and reciprocal demand balances with depository institutions) that have been offset against liabilities when a "right of offset" exists as defined by Generally Accepted Accounting Principles (GAAP) and on defeased assets.

c. Add an item for "Income earned but not collected."

5. Revise item 1 in Schedule HC-IC, Additional Detail on Capital Components as follows:

a. Item 1.a, "Perpetual preferred stock eligible for inclusion in Tier 1 capital"

(1) Item 1.a(1), "Noncumulative perpetual preferred stock"

(2)Item 1.a(2), "Cumulative perpetual preferred stock"

b. Item 1.b, "Auction rate preferred stock and other perpetual preferred stock deemed by the Federal Reserve to be eligible for Tier 2 capital only"

6. Add two items to Schedule HC-J, Risk-Based Capital excluding Securities Affiliates:

a. Add an item to Part III, Additional Capital Components, "Unsecured commitments (including unsecured loan facilities) to the Section 20 securities affiliates from the parent bank holding company or its subsidiaries."

b. Add a line item to the Memoranda section of Schedule HC-J that would require bank holding companies to report their quarterly average assets as of the reporting date, excluding the assets of the Section 20 securities underwriting affiliate.

FR Y-9LP

The Federal Reserve proposes to make the following revisions to the Parent Company Only Financial Statements for Bank Holding Companies With $150 Million or More in Total Consolidated Assets or With More Than One Subsidiary Bank (FR Y-9LP):

Clarify the reporting of cash and balances due from depository institutions by collecting all cash and balances due from depository institutions in item 1, but in two parts. Item 1.a would be "Cash and balances due from unrelated depository

institutions," and item 1.b would be "Cash and balances due from depository institutions directly or indirectly owned or controlled by the parent bank holding company." The revised item 9.a would be reported only by lower-tier bank holding companies.

FR Y-9SP

The Federal Reserve proposes to make the following revisions to the Parent Company Only Financial Statements for One Bank Holding Companies With Less Than $150 Million in Total Consolidated Assets (FR Y-9SP):

a. Clarify the reporting of cash and balances due from depository institutions by collecting all cash and balances due from depository institutions in item 1, but in two parts. Item 1.a would be "Cash and balances due from unrelated depository institutions," and item 1.b would be "Cash and balances due from depository institutions directly or indirectly owned or controlled by the parent bank holding company." Item 8.a would be deleted as a result of this change and item 8.b would become item 8.

b. Add an item, which is to be completed only by the top-tier bank holding company, that will request confirmation that all reportable changes in holding company structure have been reported on the Bank Holding Company Report of Changes in Investments and Activities (FR Y-6A) and a name of an official of the BHC responsible for confirmation.

Legal Status And Confidentiality

The reports are required by law (12 U.S.C. 1844(c) and (b) and § 225.5(b) of Regulation Y, 12 CFR 225.5(b)).

The Federal Reserve System has not considered the data in these reports to be confidential. However, a bank holding company may request confidential treatment pursuant to section (b)(4), (b)(6), and (b)(8) of the Freedom of Information Act (5 U.S.C. 552(b)(4), (b)(6), and (b)(8)). Section (b)(4) provides exemption for "trade secrets and commercial or financial information obtained from a person and privileged or confidential." Section (b)(6) provides exemption for "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Section (b)(8) exempts matters that are "contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions."

However, column A and Memoranda item 2 of Schedule HC-H, Past Due and Nonaccrual Loans, Lease Financing Receivables, Placements, and Other Assets, and all items of Schedule HC-K, Highly-Leveraged Transactions, have been accorded confidentiality by the Federal Reserve System pursuant to sections (b)(4), (b)(6), and (b)(8) of the Freedom of Information Act (5 U.S.C. 552(b)(4), 552(b)(6), and 552(b)(8)).

Regulatory Flexibility Act Analysis

The Board certifies that the bank holding company reporting requirements are not expected to have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Small bank holding companies are required to report semiannually, rather than quarterly, as is required for more complex or larger companies. The reporting requirements for the small companies require significantly less information to be submitted than the amount of information required of multibank or large bank holding companies. Additionally, the reporting requirements allow for reporting of less detail for the smaller companies on the approved items.

The information that is collected on the reports is essential for the detection of emerging financial problems, the assessment of a holding company's financial condition and capital adequacy, the performance of pre-inspection reviews, and the evaluation of expansion activities through mergers and acquisitions. The imposition of the reporting requirements is essential for the Board's supervision of bank holding companies under the Bank Holding Company Act.

Board of Governors of the Federal Reserve System, December 5, 1991.

William W. Wiles,

Secretary of the Board.

[FR Doc. 91-29568 Filed 12-10-91; 8:45 am]

BILLING CODE 6210-01-F

Michael F. Burkart, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 31, 1991.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Michael F. Burkart, Carmichael, California; Mark L. Friedman, Carmichael, California; John M. Jackson, Elk Grove, Californai; Merrill L. Dubach, Carmichael, California; Jeffrey A. Hallsten, Sacramento, California; Tommy AJ. Poirier, Carmichael, California; and Fred Harrold, Sacramento, California; to acquire between 17.15 and 21.33 percent of the voting shares of Placer Bancorporation, Roseville, California, and thereby indirectly acquire Placer Bank of Commerce, Roseville, California.

Board of Governors of the Federal Reserve System, December 5, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-29566 Filed 12-10-91; 8:45 am]

BILLING CODE 6210-01-F

Independence Bancorporation, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 31, 1991.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Independence Bancorporation, Inc., Independence, Iowa; to merge with First State Bancorporation, Fredrickburg, Iowa, and thereby indirectly acquire Northeast Iowa National Bank, Sumner, Iowa.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Wilton Holding Company, Wilton, North Dakota; to become a bank holding company by acquiring at least 81 percent of the voting shares of First State Bank of Wilton, Wilton, North Dakota.

Board of Governors of the Federal Reserve System, December 5, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-29567 Filed 12-10-91; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Child Abuse and Neglect Prevention and Treatment; Proposed Research and Demonstration Priorities for Fiscal Year 1992

AGENCY: Administration for Children and Families (ACF), Department of Health and Human Services (DHHS).

ACTION: Notice of Proposed Fiscal Year 1992 Child Abuse and Neglect Research and Demonstration Priorities for the Administration for Children and Families.

SUMMARY: This notice identifies proposed priorities for research on the causes, prevention, identification and treatment of child abuse and neglect; on appropriate and effective investigative, administrative and judicial procedures with respect to cases of child abuse; and for demonstration or service programs and projects designed to prevent, identify and treat child abuse and neglect.

Comments on these priorities and suggestions for other topics are invited. The actual solicitation of grant applications will be published separately, at a later date, in the **Federal Register**. Solicitations for contracts will be announced in the Commerce Business Daily. No proposals, concept papers or other forms of applications should be submitted at this time.

Section 105(a)(2)(B) of the Child Abuse Prevention and Treatment Act of 1988 (the Act), as amended, requires the Department to publish proposed priorities for research and demonstration activities for the purpose of soliciting comments from the public, including individuals knowledgeable in the field of prevention and treatment of child abuse and neglect. Final priorities will reflect consideration of recommendations received from the field in response to this notice.

DATES: In order to be considered, comments must be received no later than February 10, 1992.

ADDRESSES: Comments should be sent to: Wade F. Horn, Commissioner, Administration of Children, Youth and Families, Attention: National Center on Child Abuse and Neglect, P.O. Box 1182, Washington, DC 20013, (202) 245-0347.

SUPPLEMENTARY INFORMATION:

I. Background

The National Center on Child Abuse and Neglect (NCCAN) is located in the Administration on Children, Youth and Families of the Administration for Children and Families.

NCCAN conducts activities designed to assist and enhance national, State and community efforts to prevent, identify and treat child abuse and neglect. These activities include: Conducting research and demonstrations; supporting service improvement projects; gathering, analyzing and disseminating information through a national clearinghouse; and providing grants to eligible States for developing, strengthening and carrying out child abuse and neglect prevention and treatment programs and programs relating to the investigation and prosecution of child abuse cases. In addition, the legislatively mandated Advisory Board on Child Abuse and Neglect and the Inter-Agency Task Force on Child Abuse and Neglect produce periodic reports regarding child abuse and neglect activities.

Pursuant to section 105(a)(2)(B) of the Child Abuse Prevention and Treatment Act of 1988 (the Act), as amended, this notice identifies proposed priorities for research on the causes, prevention, identification and treatment of child abuse and neglect; on appropriate and effective investigative, administrative and judicial procedures with respect to cases of child abuse; and for demonstration or service programs and projects designed to prevent, identify, and treat child abuse and neglect. It also identifies proposed topics to be discussed in symposia to be convened during fiscal year (FY) 1992. The proposed demonstration and service projects include priorities for innovative programs and other projects which show promise for addressing issues related to child maltreatment. Final research and demonstration priorities and symposia topics will take into consideration public comments. The solicitation for grant applications will be published at a later date in the **Federal Register**; solicitations for contracts will appear later in the Commerce Business Daily.

In addition to projects funded under priority areas selected as a result of this announcement, NCCAN intends to continue funding for:

- The Clearinghouse on Child Abuse and Neglect Information;
- The Clearinghouse on Family Violence Information;
- The National Information Clearinghouse for Infants With Disabilities and Life Threatening Conditions; and
- The implementation of a national data collection and analysis program for collecting data from official State reports on child abuse and neglect, as required by Section 105(b) of the Act.

Moreover, NCCAN will continue to support a competitively awarded contract to examine the incidence and prevalence of child abuse and neglect. NCCAN also intends to support a competitively awarded contract to plan and conduct the Tenth National Conference on Child Abuse and Neglect, which will take place in FY 1993. Other planned procurements include an evaluation of the nine NCCAN-funded demonstration projects for community-based prevention of physical child abuse and neglect, and a synthesis of the results of research and demonstration projects addressing neglectful families.

NCCAN will continue to support grants awarded in FY 1991 in response to the **Federal Register** announcement for the Emergency Child Abuse Prevention Services Grant program designed to provide services to children whose parents are substance abusers.

NCCAN is also actively pursuing Interagency Agreements to address collaborative efforts with members of the Inter-Agency Task Force on Child Abuse and Neglect. Examples include an agreement with the Maternal and Child Health Bureau for the development of child protective services infrastructures with the Pacific Basin jurisdictions, and an agreement with the

Bureau of Indian Affairs for the development of a child protective services curricula with a multidisciplinary focus on child abuse and neglect in Indian colleges and institutions of higher learning. The Task Force has also provided the information for the recently completed report, A Guide to Funding Resources for Child Abuse and Neglect and Family Violence Programs, which is available through the Clearinghouse on Child Abuse and Neglect Information and the Clearinghouse on Family Violence Information.

II. Recent Research and Demonstration Topics

Recently funded research and demonstration projects supported by NCCAN in FYs 1990 and 1991 have addressed the following topics:

NCCAN Priority Areas Funded in FY 1990

Research Projects

- Joint Law Enforcement/Child Protective Services Investigations of Reports of Child Maltreatment;
- Psychological Impact of Child Maltreatment;
- Empirical Evaluations of Treatment Approaches for Child Victims of Physical or Sexual Abuse; and
- Field Initiated Research for Child Abuse and Neglect.

Demonstration Projects

- Synthesis and Utilization of Results of "Child Victims as Witnesses" Projects;
- Review of Existing Training for Judges to Improve the Criminal and Civil Court Intervention Process in Child Sexual Abuse Cases;
- Strengthening of Leadership and Resources for Cultural Competence in Child Abuse and Neglect; and
- National Conference on Child Abuse and Neglect.

NCCAN Priority Areas Funded in FY 1991

Research Projects

- Research on Juvenile Sexual Offenders;
- Graduate Research Fellowships in Child Abuse and Neglect; and
- Field Initiated Research on Child Abuse and Neglect.

Demonstration Projects

- Collaborative Arrangements Between State Child Welfare Agencies and State Title IV–A Agencies to Train Job Opportunity and Basic Skills (JOBS) Participants to Work as Child Protective Services Paraprofessionals; and
- National Resource Centers on Child Abuse and Neglect.

NCCAN has also funded grants in earlier fiscal years for five-year periods that are currently ongoing. Examples include the nine demonstration projects for Community-Based Prevention of Physical Child Abuse and Neglect; and the Consortium for Longitudinal Studies. The planning phase was successfully completed and the first five-year implementation phase for the Consortium for Longitudinal Studies of Child Maltreatment has been initiated. NCCAN plans to continue and expand support for the Consortium for Longitudinal Studies.

Two other projects funded by NCCAN in FY 1988 and FY 1989 respectively as resources for the field are the National Data Archive on Child Abuse and Neglect and the Status of Measurement Development in the Study of Child Abuse and Neglect. More detailed information on prior and continued projects supported by NCCAN as well as other studies on child maltreatment are available through the Clearinghouse on Child Abuse and Neglect Information, P.O. Box 1182, Washington, DC 20013.

III. Proposed Child Abuse and Neglect Research and Demonstration Priorities for FY 1992

The Administration for Children and Families (ACF) solicits comments and suggestions concerning each of the proposed priorities and symposia topics for FY 1992 described below. We also solicit suggestions for areas not covered in this announcement, but which are timely and relate to specific needs in the field of child abuse and neglect. Any suggestions for new priorities or topics should keep in mind the issues already being addressed in current projects, as listed above. Comments should also build on the current base of knowledge in child abuse and neglect and its prevention, identification and treatment. Knowledge gained through proposed research and demonstration priorities should lead to improved services for children and families and increase the knowledge in the field. As specified in the proposed priority areas, we intend to pay special attention to issues of ethnic and cultural relevance in the design of demonstration projects and research studies as well as in the development of measures, evaluation and objectives.

All applicants for research priority areas, including those for Graduate Research Fellowships in Child Abuse and Neglect, must provide an Assurance of Human Subjects Protection as reflected in the process described in the HHS Form 596. All applicants will be expected to address the ethical issues pertaining to the projects they are proposing.

All successful applicants will be expected to follow an NCCAN-suggested format in the preparation of final program reports in order to achieve broader dissemination and successful utilization of findings by policymakers, practitioners, and researchers. The review process for applications that are to be submitted in response to the final announcement will continue to be that of peer review.

Since the amount of Federal funds available for new grants in FY 1992 is dependent on Congressional appropriations, respondents are encouraged to recommend how proposed issues should be prioritized.

No acknowledgement will be made of the comments submitted in response to this notice, but all comments received by the deadline will be reviewed and given thoughtful consideration in the preparation of the final funding priorities for child abuse and neglect activities in FY 1992. Copies of the final program announcement will be sent to all persons who comments on these proposed priorities.

A. Proposed Research Priorities

The proposed research priority areas have been developed as the result of information and suggestions received from the field including NCCAN-sponsored symposia, the NCCAN Research Grantees Meeting, and Hearings convened by the Advisory Board on Child Abuse and Neglect.

NCCAN plans to continue building on recommendations made at the meetings described above. We recognized the importance of longer timeframes with suitable funding levels to enable projects to both initiate and conclude studies with appropriate products and processes for the dissemination of findings. We propose that all applicants include plans to prepare data sets according to sound documentation practices to ensure the potential of these data sets for subsequent use by other researchers. We also encourage the use of common data collection instruments across studies where applicable.

1. Field Initiated Research for Child Abuse and Neglect

The generation of new knowledge that promotes an understanding of critical issues in child abuse and neglect is essential in order to improve prevention, identification and treatment. This priority area proposes to support new research designed to carry out the legislative responsibilities established

for the National Center on Child Abuse and Neglect by the Child Abuse Prevention and Treatment Act of 1988, as amended. These responsibilities include the conduct of research on the causes, prevention, identification and treatment of child abuse and neglect; and appropriate and effective investigative, administrative and judicial procedures with respect to cases of child abuse, particularly child sexual abuse.

Research areas to be addressed are those that will expand the current knowledge base, build on prior research, contribute to practice and provide insights into new approaches to the prevention and treatment of child maltreatment. The areas include, but are not limited to, mediators and mechanisms in the intergenerational transmission of family processes that lead to or prevent child maltreatment, spousal abuse and family dysfunction; the linkages between child maltreatment, sibling abuse and spousal violence; the role of neighborhood safety factors in the etiology and reporting of child abuse and neglect; cultural factors in maltreatment and the child protective services' (CPS) system response; clients' perceptions and follow-up of service referrals provided by CPS or related agencies, including how service needs are identified and factors that promote client follow-up and effective utilization of service referrals; the relationship between two or more risk conditions (e.g., disabilities, substance abuse) among family members and child maltreatment; the unique issues of the youth population, including identification of successful strategies utilized for the prevention of maltreatment and averting of victimization as well as successful approaches to bolstering teenage credibility in the reporting of maltreatment; and effective administrative procedures for the identification, handling and treatment of child abuse cases.

The proposed research studies should be designed to address current and emerging issues that have direct application to the field of child abuse and neglect.

2. Graduate Research Fellowships in Child Abuse and Neglect

The research community has highlighted the need to draw new researchers into the field of child abuse and neglect. NCCAN proposes to continue support for individual fellowships for doctoral candidates to complete dissertations addressing critical issues in child abuse and neglect.

NCCAN seeks to expand the research capacity of the field by encouraging more students to seek careers in child abuse and neglect research through the granting of graduate fellowships for doctoral candidates to complete their dissertations. The questions to be addressed and issues to be studied for graduate fellowships are those related, but not limited, to the Priority Area on Field Initiated Research for Child Abuse and Neglect. Applicants will be expected to identify any limitations in carrying out the research (e.g., obtaining the sample) or potential barriers to the completion of the study. When the study proposed is to be part of ongoing research at the institution, the study must be clearly distinguished from the other research.

Students seeking these Graduate Research Fellowships must be enrolled as doctoral candidates in their sponsoring institutions and provide documentation that the institution's dissertation committee has accepted the research proposal. Proposals submitted by sponsoring institutions must include candidates' resumes outlining education, employment experience and publications. Information should also be included on the academic status of the candidate. A letter of support from a sponsoring faculty member must be provided for each doctoral candidates seeking a Fellowship. All required assurances and certifications, including Certification of Protection of Human Subjects Assurances, are expected to be part of the application.

While an individual is considered to be the beneficiary of the grant support, awards would be made to eligible institutions on behalf of qualified candidates. To be eligible to administer such a grant on behalf of the student, the institution must be fully accredited by one of the regional institutional accrediting commissions recognized by the U.S. Secretary of Education and the Council on Postsecondary Accreditation. Students attending Historically Black Colleges and Universities, Native American institutions of higher learning, and other institutions of higher learning with a history of serving Hispanic and Asian populations are encouraged to apply. There are no overhead costs allowed for this program. The full amount of the stipend is to go directly to the graduate student. No more than two awards per institution will be made. Awards would be for a twelve-month period and would be used to cover stipends, dependent allowances, university fees and major costs for conducting the proposed study project, including any necessary travel.

3. Research on the Non-Offending Parent of Victims of Intrafamilial Sexual Abuse

Intrafamilial abuse affects all members of the family that experience it. The literature reflects considerable discussion and research on the impact of intrafamilial sexual abuse on the child victim, the appropriate actions to be taken regarding the perpetrator and the treatment to be provided to the family. Key to the healing of the child victim is the role that the non-offending parent plays at disclosure, treatment, disposition and beyond. Although there are cases where the non-offending parent is the father, this priority area focuses on the maternal non-offending parent of the child victim of intrafamilial sexual abuse.

Discussions in the literature describe the mother of the incest victim in a variety of ways, often negative. She has been characterized as weak, unassertive, and over-dependent by Zephan, 1982. The mother's depression, illness, or absence have been cited as risk factors for the abuse to occur, (Pecora, in press). At least one researcher has suggested that the mother could prevent disclosure of abuse, (Kohn, 1987). Others suggest that non-offending mothers have personality difficulties that make it difficult for them to protect their children, (Cammaert, 1988).

This priority area intends to build on current research on the factors that contribute to an understanding of why some mothers of child sexual abuse victims are supportive and others are not. In order to plan treatment for this population, it is important to look at factors that may assist the mothers in supporting their children both upon disclosure and through the numerous interviews and investigations conducted by a variety of professionals involved in the case. The family may also experience changes in financial and living conditions as a result of the perpetrator being removed from the home. These changes place a great strain on the mother at a time when the victim and other children most need a stable and nurturing environment.

NCCAN is interested in supporting studies to further explore the variables that promote maternal support. Information is needed on the characteristics of the non-offending parent and the family composition, her background and own victimization experiences, her perceptions of and relationship to her child, her attitudes toward treatment for her child, herself and the perpetrator. This research

should contribute to a theoretical framework for different types of specialized treatment approaches for the non-offending parent that will enable her to provide for the well-being of the child victim.

B. Proposed Demonstration and Service Priorities

1. Infrastructure for the Support of Research in Child Abuse and Neglect

NCCAN has initiated a multifaceted approach to the conduct of research and the support of sound research strategies particularly relevant to the critical issues in the child abuse and neglect field. Toward this end, a nineteen-month grant has been awarded to the National Academy of Sciences National Research Council to conduct a comprehensive review and synthesis of research on child abuse and neglect and recommend research priorities for the next decade. The study will be accomplished through the convening of a multidisciplinary panel of distinguished scientists under the auspices of the Committee on Child Development and Research Policy of the Commission on Behavioral and Social Sciences.

At the same time, this announcement sets forth NCCAN's intent to continue support for field initiated research and graduate research fellowships to stimulate knowledge building and increase the numbers of researchers entering the field of child abuse and neglect. As well, NCCAN plans to conduct a symposium on how to bridge the identified gaps between research and practice.

Further, the NCCAN-funded Consortium for Longitudinal Studies, in its initial implementation year, is spawning the first multidisciplinary collaborative effort of its kind in this field among research scientists to address questions about the life course of at-risk and child maltreating families. These studies are designed to contribute to the knowledge of the etiology and ecology of child abuse and neglect. Already, the Consortium has contributed to a common set of data collection instruments for use by other researchers in the field where applicable and is setting standards for uniformity in research methods and data collection procedures. NCCAN also convenes an annual meeting of research grantees which provides a forum for researchers to share findings, major accomplishments and problems encountered.

In this priority area, NCCAN proposes to ensure funding for the other components of an infrastructure identified as critical for the support of research in child abuse and neglect. Examples include a national archive for processing and housing quality data sets; a directory of measures used in studies of child abuse and neglect; approaches for systematically addressing the methodological problems and legal and ethical issues in conducting research studies of child maltreatment; and other critical gaps in the infrastructure for supporting research. Each of these components is discussed in further detail below.

NCCAN recognizes the need to provide support for a national archive for child abuse and neglect data. There are several functions that a national archive can perform for researchers in the field of child abuse and neglect. While a major function is to process, house, and preserve quality data sets from studies on child abuse and neglect, an archive also plays a critical role in setting standards and establishing good practices for the documentation of data sets. Establishing such procedures enables data to be more readily and easily shared with other researchers and provides the additional capacity for further and secondary analyses. A centralized archive can also facilitate collaboration among researchers for knowledge building, and encourage new researchers into the field.

Another important component for facilitating research is through current information on measures and instruments used in conducting studies on child maltreatment. NCCAN proposes to provide support for building on and expanding the current computerized directory and related resources on measures used in studies of the prevention, identification, and treatment of child abuse and neglect. It is important that timely information be available or how and what instruments have been utilized, what the strengths and weaknesses of the measures are and under what circumstances they might be best utilized. These resources enable collaboration among researchers through the use of common batteries of known measures across studies where applicable, thereby enhancing the knowledge building capacity of the field. This work would also contribute to the identification of the unmet needs for instruments and the development of new measures.

NCCAN seeks to identify and address the most critical methodological problems and legal and ethical issues encountered in the conduct of research in the study of child abuse and neglect. There is the need for state-of-the-art information on these problems and issues. This may be accomplished through the convening of technical conferences of workshops, the preparation of technical papers or commission of monographs on given topics, and the development of packages and instructional papers on exemplary procedures. This component should contribute to the knowledge building capacity of the field both in the use of sounder techniques and in the development of new ones to address critical research questions.

NCCAN invites the field to identify other critical gaps in the infrastructure for supporting research and those areas needed to enhance the capacity of the field to conduct research in child abuse and neglect.

2. Field Initiated Demonstration Programs to Address Child Abuse and Neglect

NCCAN is interested in supporting the development of innovative approaches to combating child maltreatment. The development of these demonstrations must be documented and include a strong evaluation component. There is a critical need to know what programs work for whom, where and under what circumstances. There is the further need to have the capacity to replicate sound and effective child abuse and neglect prevention and treatment programs.

Demonstration areas to be addressed are those that will expand the capacity of the field in the prevention, identification and treatment of child abuse and neglect. These would include replications of successful approaches to address other populations under a given sponsor in other geographical locations; full implementation of successful pilot program; and trying out a new approach to a continuing problem or addressing a new area. Examples include collaborative efforts between child abuse and neglect and family violence programs; comprehensive school-based programs to serve children with disabilities, adolescent youth, or low-income families to risk of child maltreatment; collaborative efforts for establishing a neighborhood-based program of services for assisting self-referred parents in a non-punitive manner; replication of child advocacy centers; and establishment of a comprehensive integrated services delivery system.

3. Culturally Sensitive Prevention Demonstration Programs for Servicing Populations of Different Cultures at Risk for Child Maltreatment

Many parents belong to cultures with differing child rearing customs, attitudes, traditions, practices and cultural norms. Among these

populations are recent immigrants including Hispanic and Amerasian families, Southeast Asian refugees as well as migrant workers and geographically isolated populations.

This priority area proposes to address culturally sensitive prevention demonstrations aimed at improving the level of family functioning in these groups. Demonstrations may include parenting programs, the provision of appropriate social and health services, and educational efforts that deal with parents' fears of losing their cultures, customs and traditions.

The proposed demonstrations should provide documentation in support of the issues being addressed, detail the specific intervention and timeframes, and describe their approaches to an evaluation of the impacts of their interventions.

4. Model Approaches to Services Delivery to Combat Child Maltreatment in Rural Communities

There is the need to identify, develop or adapt model approaches to services delivery for children and their families residing in rural settings. These approaches should build on the strengths and address the unique needs of children and families in rural communities.

NCCAN is interested in supporting the development of model programs for services delivery to combat child maltreatment in rural settings. These demonstration programs may be adapted from or linked with other community-based programs such as Head Start, mental health centers, and agricultural extension services. An evaluation component should be included.

These programs should be designed as appropriate to:

- Mobilize local public and private resources including employment and housing services, churches, schools, businesses and service clubs;
- coordinate community services delivery around central sites such as schools, libraries and community centers;
- recognize the transportation needs for children and their families;
- build on natural relationships and informal networks in the community;
- establish roving medical and dental teams from the county seats to outstation sites in the more geographically isolated areas;
- link up with telephone systems for medical, mental health, social service, and legal consultations;
- make use of media including newspapers, radio and television;
- make use of self-instruction training materials for families and community services providers; and
- provide home visiting programs.

These approaches may be implemented on a multi-county, State or regional basis.

C. Symposia

In addition to the above activities, NCCAN proposes to convene symposia in FY 1992 with selected experts on subject areas of critical concern to the field of child abuse and neglect. The selection of topics for the symposia will focus on issues on which some research and demonstration efforts have occurred but for which there is no clear direction for further development.

The purpose of each symposium is to review what is known to the field, but needs further exploration, and to identify areas about which little is known and which require closer examination. The symposia should result in recommendations for multi-year strategies to further explore some topics and to identify new areas for examination. This will be accomplished by bringing together small groups of selected experts who will assess the major issues and identify trends and problems in the field. Substantive reports of publishable quality will be prepared based upon the discussions during and findings from the symposia.

Comments are requested on the following symposia topics which NCCAN proposed to address in FY 1992:

- Risk Assessment in Child Protective Services Practice;
- Bridging the Gap Between Research and Practice;
- Hospital-Related Issues in Child Abuse and Neglect;
- Intervention in Cases of Chronic Neglect; and
- Law Enforcement's Role in Physical Abuse, Neglect, and Sexual Abuse Intervention.

In addition to those cited above, practitioners and researchers are encouraged to propose other relevant subjects for symposia deliberations.

(Catalog of Federal Domestic Assistance Program Number 13.670, Child Abuse and Neglect Prevention and Treatment.)

Dated: October 7, 1991.

Wade F. Horn,

Commissioner, Administration on Children, Youth and Families.

Approved: October 18, 1991.

Jo Anne B. Barnhart,

Assistant Secretary for Children and Families.

[FR Doc. 91-29588 Filed 12-10-91; 8:45 am]

BILLING CODE 4130-01-M

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of January 1992:

Name: HRSA Aids Advisory Committee.

Time: January 13-14, 1992, 8:30 a.m.

Place: National Institutes of Health, Building 31, Conference Rm. 10, 9000 Rockville Pike, Bethesda, MD 20205.

The meeting is open to the public.

Purpose: The Committee advises the Secretary with respect to health professional education, patient care/health care delivery to HIV-infected individuals, and research relating to transmission, prevention and treatment of HIV infection.

Agenda: Discussions will be held concerning the status of Health Resources and Services Administration (HRSA) program activities, the impact of the new Center for Disease Control definition of AIDS on HRSA programs, and issues related to standards of care and information dissemination.

Anyone requiring information regarding the subject Committee should contact Gilda Martoglio, Acting Executive Secretary, HRSA AIDS Advisory Committee, Health Resources and Services Administration, room 14A-21, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-4588.

Agenda Items are subject to change as priorities dictate.

Dated: December 5, 1991.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 91-29580 Filed 12-10-91; 8:45 am]

BILLING CODE 4160-15-M

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of February 1992.

Name: Advanced General Dentistry Review Committee.

Date and Time: February 3-5, 1992, 8:30 a.m.

Place: Conference Room L, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open on February 3, 8:30 a.m.-9:30 a.m. Closed for Remainder of Meeting.

Purpose: The Advanced General Dentistry Review Committee shall review applications from public and nonprofit private schools of dentistry or accredited postgraduate dental training institutions that plan, develop and operate an approved residency program or

advanced educational program in the general practice of dentistry, including the support of trainees in such programs who plan to specialize in the practice of general dentistry.

Agenda: The open portion of the meeting will cover welcome and opening remarks, legislative updates, and overview of the review process. The meeting will be closed to the public on February 3, at 9:30 a.m. for the remainder of the meeting for the review of grant applications. The closing is in accordance with the provisions set forth in section 552b(c)(6), title 5 U.S.C. Code, and the Determination by the Administrator, Health Resources and Service Administration, pursuant to Public Law 92–463.

Anyone requiring information regarding the subject Council should contact Dr. Richard Weaver, Executive Secretary, Advanced General Dentistry Review Committee, room 8C–15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6837.

Agenda Items are subject to change as priorities dictate.

Dated: December 5, 1991.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 91–29579 Filed 12–10–91; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–060–02–4320–02]

Moab District Grazing Advisory Board Meeting

December 2, 1991.

AGENCY: Bureau of Land Management, Interior.

ACTION: Moab District Grazing Advisory Board Meeting.

SUMMARY: Notice is hereby given in accordance with Public Law 92–463 that a meeting of the Moab District Grazing Advisory Board will be held on January 22, 1992. The meeting will begin at 10 a.m. in the 2nd floor conference room in the east wing of the College of Eastern Utah Prehistoric Museum, 155 East Main Street, Price, Utah.

The agenda for the meeting will include:

1. Briefing on drought conditions in the District;
2. Briefing on how the San Juan and San Rafael RMPs will be implemented and time frames for implementation;
3. Briefing on amendments to the Grand RMP;
4. Status of the Comb Wash CRMP and appeal by National Wildlife Federation;
5. Prairie Dog problems in Lisbon Valley; and
6. Range improvement projects to be funded in FY92 with 8100 funding.

The meeting is open to the public. Interested persons may make oral statements to the board between 2:30 and 3:30 p.m. on January 22, 1992 or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532, by January 17, 1992. Written statements submitted for the Boards consideration should be submitted so that they are received at the above address by January 20, 1992.

Summary minutes of the Board meeting will be maintained in the District Office and will be available within thirty (30) days following the meeting.

Kenneth V. Rhea,

Associate District Manager.

[FR Doc. 91–29613 Filed 12–10–91; 8:45 am]

BILLING CODE 4310–DQ–M

Notice of Realty Action—Exchange; CA

AGENCY: Bureau of Land Management, Interior, California (CA–060–02–3130–10–B004).

ACTION: Notice of realty action, exchange of public and private lands in Kern County, CACA 23083, CACA 24839, CACA 27516, CACA 28636, CACA 28699.

SUMMARY: The following public lands in Kern County have been examined and determined suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

CACA 23083, Selected public lands:

Mount Diablo Meridian, California

T. 32S., R. 38E.,
Sec. 14, E½ SE¼ SW¼
Containing 20 acres of public land, more or less.

In exchange for these lands, the United States will acquire the following private lands in Kern County from Maurice and Cleo Robinson.

CACA 23083 offered lands:

Mount Diablo Meridian, California

T. 31S., R. 38E.,
Sec. 21, N½ SE¼ SW¼
Containing 20 acres of non-federal lands, more or less.

CACA 24839, selected public lands:

Mount Diablo Meridian, California

T. 32S., R. 38E.,
Sec. 14, W½ SW½ SE¼
Containing 20 acres of public land, more or less.

In exchange for these lands, the United States will acquire the following private lands in Kern County from John and Sandra Jolly.

CACA 24839, offered lands:

Mount Diablo Meridian, California

T. 31S., R. 38E.,
Sec. 21, S½ SE¼ SW¼
Containing 20 acres of non.federal lands, more or less.

CACA 27516, selected public lands:

Mount Diablo Meridian, California

T. 32S., R 38E.,
Sec. 14, NE¼ NW¼ NE¼
Containing 10 acres of public land, more or less.

In exchange for these lands, the United States will acquire the following private lands in Kern County from Johan and Glenna Farstad.

CaCA 27516, offered lands:

Mount Diablo Meridian, California

T. 38S., R. 38E.
Sec. 16, NW¼ SW¼ SW¼
Containing 10 acres of non-federal lands, more or less.

CACA 28636, selected public lands:

Mount Diablo Meridian, California

T. 32S., R. 38E.
Sec. 14, W½ E½ SW¼ SE¼
Contining 10 acres of public land, more or less.

In exchange for these lands, the United States will acquire the following private lands in Kern County from Howard and Eva Schwartz.

CACA 28636 offered lands:

Mount Diablo Meridian, California

T. 31S., R. 38E.
Sec. 27, SW¼ NW¼ NE¼
Containing 10 acres of non-federal lands, more or less.

CACA 28699, selected public lands:

Mount Diablo Meridian, California

T. 32S., R. 38E.
Sec. 14, NW¼ NW¼ NE¼
Containing 10 acres of public land, more or less.

In exchange for these lands, the United States will acquire the following private lands in Kern County from Fred and Veronica Reinelt.

CACA 28699, offered lands:

Mount Diablo Meridian, California

T. 315., R. 38E.,
Sec. 21, SE¼ SW¼ SE¼
Containing 10 acres of non-federal lanas, more or less.

DATES: For a period of 45 days from the date of first publication of this Notice in the **Federal Register**, interested parties

may submit comments to the District Manager, California Desert District Office, 6221 Box Springs Boulevard, Riverside, California 92507. Objections will be reviewed by the State Director, who may sustain, vacate, or modify this realty action. In the absence of objections, this realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Tom Gey, California Desert District Office (714) 697-5352. Information relating to these exchanges is available for review at the California Desert District Office, 6221 Box Springs Boulevard, Riverside, California 92507.

SUPPLEMENTARY INFORMATION: The purpose of the exchanges is to acquire non-federal lands within the designated Desert Tortoise Research Natural Area. This Notice is issued to provide supplementary information to Notice of Realty Action CACA 27733, published in Volume 56, Number 4, of the **Federal Register**, January 7, 1991, which segregated the selected public lands until January 6, 1993 or until issuance of patent, whichever occurs first. The values of the lands to be exchanged are approximately equal; equalization of values required by law will be achieved by acreage adjustments or by cash payments in amounts not to exceed 25 percent of the fair market value of the selected lands. Lands transferred out of federal ownership will be subject to the following reservations, terms and conditions:

1. Reservations to the United States: (a). Right of way for ditches and canals pursuant to the Act of August 30, 1890 (43 U.S.C. 945).

2. Subject to: public easements in favor of California City for road and utility purposes. Private lands to be acquired by the United States will be subject to easements and mineral reservations noted in the preliminary title reports. The exchanges are scheduled to be completed in June of 1992.

Dated: November 27, 1991.

Alan Stein

Acting District Manager.

[FR Doc. 91-28581 Filed 12-10-91; 8:45 am]

BILLING CODE 4310-40-M

[ID-060-02-4212-13; IDI-27822]

Exchange of Public Lands; ID

AGENCY: Bureau of Land Management, Coeur d'Alene District, Interior.

ACTION: Notice of realty action; Exchange of public lands in Shoshone County, Idaho.

SUMMARY: This Notice is to advise the public that the Emerald Empire Resource Area, Coeur d'Alene District of the Bureau of Land Management has determined that the following described public lands are suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Boise Meridian, Idaho

T.44N., R.2E.,
Sec. 2, Lots 2, 3, 4, S½NW¼, NW¼SW¼
Sec. 3, Lots 3, 4
Sec. 10, W½NE¼, E½NW¼, NW¼SE¼
T.45N., R.2E.,
Sec. 34, S½N¼, N½S½, SW¼SW¼
T.45N., R.3E.,
Sec. 22, N½NE¼, SE¼SE¼
T.45N., R.4E.,
Sec. 17, Lots 6-10, SW¼NE¼, SE¼NW¼, S½
Sec. 28, NW¼NE¼
T.56N., R.4W.,
Sec. 22, NE¼

The area described above aggregates approximately 1,663.17 acres in Shoshone County, Idaho.

In exchange for these lands, the United States will acquire the following described lands:

Boise Meridian, Idaho

T.43N., R.4E.,
Sec. 1, SW¼SW¼
Sec. 3, SE¼SE¼
Sec. 5, Lots 3, 4, SW¼NE¼, S½NW¼, SW¼, W½SE¼
Sec. 7, E½E½
Sec. 11, N½
Sec. 17, N½NW¼
Sec. 31, Lots 1-4, E½W½
Sec. 33, N½SE¼

The area described above aggregates approximately 1,479.50 acres in Shoshone County, Idaho.

The purpose of the land exchange is to benefit the public interest by obtaining important resource values. The public lands to be exchanged are isolated and difficult to manage parcels with limited resource values. The private lands being offered have important values for timber, access, wildlife, and recreation that merit acquisition for public ownership. There are no grazing leases, grazing permits, or range improvements on any of the above described public lands. The exchange is consistent with the Bureau of Land Management land use plans and the public interest will be well served by making this exchange. Final determination on disposal will await completion of an environmental analysis, which will be made available to the public. The value of the lands to be exchanged will be approximately equal.

The exchange will be subject to:

1. All valid existing rights, including any right-of-way, easement, permit or lease of record.

2. A reservation to the United States of a right-of-way for ditches and canals constructed by the authority of the United States under the Act of August 30, 1980 (43 U.S.C. 945).

The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws but not from exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant. The segregative effective of this Notice will terminate upon issuance of patent or in two years, whichever occurs first.

ADDRESSES: Detailed information concerning the exchange is available for review at the Coeur d'Alene District Office, 1808 North Third Street, Coeur d'Alene, Idaho 83814.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager at the above address. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: December 3, 1991.

Fritz U. Rennebaum,

District Manager.

[FR Doc. 91-29502 Filed 12-10-91; 8:45 am]

BILLING CODE 4310-GG-M

[WY-930-4214-10; WYW 121895]

Cancellation and Opening of Proposed Withdrawal of Land; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates the temporary 2-year segregation of a proposed withdrawal on 275.84 acres of National Forest System land for the proposed Burgess Visitor Information Center Site. This action temporarily

withdrew the land from location and entry under the United States mining laws. The lands remained open to other forms of disposition which may by law be made of National Forest System land and to mineral leasing.

EFFECTIVE DATE: January 10, 1992.

FOR FURTHER INFORMATION CONTACT: Janet Booth, Wyoming State Office, 2515 Warren Avenue, Cheyenne, Wyoming 82001, (307) 775–6124.

SUPPLEMENTARY INFORMATION: On October 15, 1990, a notice of proposed withdrawal of land for the Department of Agriculture was published in the **Federal Register**, 55 FR 41776. The purpose of the application was to protect the proposed Burgess Visitor Information Center Site while in the final development stages. The Forest Service has determined that they will not be building on this site.

The segregative effect of the proposed withdrawal is hereby terminated in the following described land:

Sixth Principal Meridian

Bighorn National Forest

T. 55 N., R. 86 W.,
sec. 6, lots 1 and 2.
T. 56 N., R. 88 W.,
sec. 31, SE¼;
sec. 32, SW¼SW¼.

The areas described aggregate 275.84 acres in Sheridan County.

At 9 a.m. on January 10, 1992 the land will be opened to location and entry under the United States mining laws, subject to valid existing rights, the provision of existing withdrawals, and other segregations of record. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

Dated: December 3, 1991.

F. William Eikenberry,

Associate State Director, Wyoming.

[FR Doc. 91–29583 Filed 12–11–91; 8:45 am]

BILLING CODE 4310–22–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–170 (Advisory Opinion Proceedings)]

Notice of Issuance of Advisory Opinion

In the Matter of Certain Bag Closure Clips.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued an advisory opinion finding that the importation of certain bag closure clips by McCrory Products, Inc. of York, Pennsylvania would violate the general exclusion order issued at the conclusion of the above-captioned investigation.

ADDRESSES: Copies of the advisory opinion and all other nonconfidential documents filed in connection with this investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–1000.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3104.

Hearing-impaired individuals are advised that information about this matter can be obtained by contacting the Commission's TDD terminal, 202–205–1810.

SUPPLEMENTARY INFORMATION: On May 15, 1991, McCrory Products, Inc. (McCrory) of York, Pennsylvania, filed a request pursuant to Commission interim rule 211.54(b) for an advisory opinion that importation of certain bag closure clips would not violate the exclusion order issued by the Commission in November 1984 at the conclusion of Inv. No. 337–TA–170, Certain Bag Closure Clips. McCrory supplemented its petition on May 22, 1991.

On July 19, 1991, the Commission issued an order instituting an advisory opinion proceeding based on McCrory's request. The Commission's order called for briefing by McCrory, the patent holder Chip Clip Corp., and the Commission's Office of Unfair Import Investigations (OUII). Guardsman, Inc. responded that it did business as Chip Clip Corp. and owned the patents underlying the Bag Clips exclusion order. Guardsman and OUII filed submissions opposing McCrory's petition.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and § 211.54(b) of the Commission's Interim Rules of Practice and Procedure (19 C.F.R. § 211.54(b)).

By order of the Commission.

Dated: December 2, 1991.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–29596 Filed 12–10–91; 8:45 am]

BILLING CODE 7020–02–M

[Investigation 337–TA–328]

Notice of Receipt of Initial Determination Terminating Respondents on the Basis of Consent Order Agreement

In the matter of certain bathtubs and other bathing vessels and materials.

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above captioned investigation terminating the following respondents on the basis of a consent order agreement: Kaldewei GmbH & Co.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon parties on December 5, 1991.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such

documents must be filed with the Secretary to the Commission, 500 E Street, SW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portions thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, Telephone (202) 205–1802.

By order of the Commission.

Dated: December 5, 1991.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–29597 Filed 12–10–91; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–473 (Final)]

Certain Electric Fans From the People's Republic of China

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act), that industries in the United States are materially injured by reason of imports from the People's Republic of China of certain electric fans, provided for in subheading 8414.51.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).[3]

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Acting Chairman Brunsdale dissents from this determination.

[3] Commerce defined the scope of its investigations as follows: "Imports covered by these investigations constitute two separate classes or kinds of merchandise: (1) Oscillating fans; and (2) ceiling fans.

Oscillating fans are electric fans that direct a flow of air using a fan blade/motor unit that pivots back and forth on a stationary base ('oscillates'). Oscillating fans incorporate a self-contained electric motor of an output not exceeding 125 watts.

Ceiling fans are electric fans that direct a downward and/or upward flow of air using a fan blade/motor unit. Ceiling fans incorporate a self-contained electric motor of an output not exceeding 125 watts. Ceiling fans are designed for permanent or semi-permanent installation.

Window fans, industrial oscillating fans, industrial ceiling fans, and commercial ventilator fans are not included within the scope of these investigations. Furthermore, industrial ceiling fans are defined as ceiling fans that meet six or more of the following criteria in any combination: a maximum speed of greater than 280 revolutions per minute (RPMs); a minimum air delivery capacity of 8,000 cubic feet per minute (CFM); no reversible motor switch; controlled by wall-mounted electronic switch; no built-in motor controls; no decorative features; not light adaptable; fan blades greater than 52 inches in diameter; metal fan blades; downrod mounting only—no hugger mounting capability; three fan blades; fan blades mounted on top of motor housing; single-speed motor."

Background

The Commission instituted this investigation effective May 31, 1991, following preliminary determinations by the Department of Commerce that imports of oscillating fans and ceiling fans from the People's Republic of China were being sold at LTFV within the meaning of section 733(b) of the act (19 U.S.C. 1673b(b)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of June 19, 1991 (56 FR 28170). The hearing was held in Washington, DC, on October 29, 1991, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on December 2, 1991. The views of the Commission are contained in USITC Publication 2461 (December 1991), entitled "Certain Electric Fans from the People's Republic of China: Determination of the Commission in Investigation No. 731–TA–473 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

By Order of the Commission.

Dated: December 2, 1991.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–29598 Filed 12–10–91; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 332–318]

U.S. Market Access in Latin America: Recent Liberalization Measures and Remaining Barriers (With a Special Case Study on Chile)

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

EFFECTIVE DATE: December 2, 1991.

FOR FURTHER INFORMATION CONTACT: James E. Stamps, Trade Reports Division, Office of Economics (202–205–3227), or Robert W. Wallace, Textiles Division, Office of Industries (202–205–3458), U.S. International Trade Commission, Washington, D.C. 20436.

Background and Scope of Investigation

The Commission instituted the investigation, No. 332–318, on December 2, 1991, following receipt on October 30, 1991, of a request from the Committee on Finance of the United States Senate for an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). As requested by the Committee, the Commission in its report on the investigation will seek to review recent economic and trade policies in Latin America, assess current obstacles to U.S. market access in Latin America, and analyze the effect of recent liberalization measures by these countries on flows of U.S. goods, services, and investment to Latin America.

More specifically, as requested by the Committee, the Commission will seek to provide in its report:

(1) A brief summary of Latin America's economic performance during the past decade;

(2) A profile of barriers to U.S. market access and of current Latin American trade, investment, and production patterns; and

(3) Highlights of recent events significantly influencing U.S.-Latin American economic relations, including a description of recent liberalization measures undertaken by these countries and of the Enterprise for the Americas Initiative and other efforts to expand intra-regional trade.

In addition, as requested by the Committee, the Commission's report will include a case study on Chile. In the case study the Commission will seek to provide a closer examination of Chilean trade and investment policies than in the broader study of the other Latin American countries. Specifically, the case study will include, as requested, (a) a brief review of past trade-related economic policies, (b) a description of remaining barriers affecting U.S. market access, including current trade and investment restrictions, and (c) an overview of Chilean policies influencing Chile's exports to the United States.

As requested by the Committee, the Commission intends to submit its report by March 1, 1992.

Public Hearing

A public hearing in connection with this investigation will be held in the Commission Hearing Room, 500 E Street, SW., Washington, DC 20436, beginning at 9:30 a.m. on January 22, 1992. All persons will have the right to appear by counsel or in person, to present testimony, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 500 E St., SW., Washington, DC 20436, no later than noon, January 10, 1992. Persons testifying at the hearing are encouraged to file prehearing briefs or statements; the deadline for filing such briefs or statements (a signed original and 14 copies) is January 10, 1992. The deadline for filing posthearing briefs or statements is January 31, 1992. Any confidential business information included in such briefs or statements or to be submitted at the hearing must be submitted in accordance with the procedures set forth in § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

Written Submissions

In lieu of or in addition to participating in the hearing, interested persons are invited to submit written statements concerning the matters to be addressed in the report. The Commission is particularly interested in receiving information concerning current barriers to U.S. exports and investment in Latin America and the view of U.S. business on recent economic and trade reforms in the region. Commercial or financial information that a party desires the Commission to treat as confidential must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6)—that is, it must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. (Generally, submission of separate confidential and public versions of the submission would be appropriate.) All written submissions, except for confidential business information, will be made available in the Office of the Secretary of the Commission for inspection by interested persons. To be assured of consideration by the Commission, written statements and posthearing briefs should be submitted to the Commission at the earliest practical date and should be received no later than January 31, 1992. All submissions should be addressed to the Secretary to the Commission at the Commission's Office in Washington, DC.

Hearing-impaired persons are advised that information on this investigation can be obtained by contacting the Commission's TDD terminal on 202–205–2648.

By order of the Commission.

Dated: December 3, 1991.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–29595 Filed 12–10–91; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-315]

Notice of Commission Decision To Review Portions of an Initial Determination, and Schedule for the Filing of Written Submissions on the Issues Under Review, and on Remedy, the Public Interest, and Bonding

In the matter of certain plastic encapsulated integrated circuits.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review certain portions of the initial determination (ID) issued on October 15, 1991, by the presiding administrative laws judge (ALJ) in the above-captioned investigation.

ADDRESSES: Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202–252–1000.

FOR FURTHER INFORMATION CONTACT: Andrea C. Casson, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–3105. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–2000.

SUPPLEMENTARY INFORMATION: On July 9, 1990, Texas Instruments Incorporated (TI) filed a complaint under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) alleging that respondents Analog Devices, Inc., Integrated Device Technology, Inc., LSI Logic Corporation, VLSI Technology, Inc., and Cypress Semiconductor Corporation, had imported and sold within the United States certain plastic encapsulated integrated circuits manufactured by a process covered by certain claims of U.S. Letters Patent 4,043,027 (the '027 patent). The Commission instituted an investigation of the complaint and issued a notice of investigation that was published in the **Federal Register** on August 15, 1990 (55 FR 33388).

On October 15, 1991, the presiding ALJ issued a final ID finding a violation of section 337 on the ground that certain of respondents' imported plastic encapsulated integrated circuits were manufactured by a process covered by claims 12 and 14 of the '027 patent. He found that the processes for manufacturing these products was not covered by claims 1 and 17 of the patent. In addition, he found that certain other plastic encapsulated integrated circuits imported by respondents (those encapsulated using a process called "same-side" gating) were not covered by claims 1, 12, 14, or 17.

Complainant TI, all respondents, and the Commission investigative attorneys filed petitions for review of the ID, as well as respondents to those petitions for review.

Having examined the record in this investigation, including the ID, the Commission has determined to review the issues of (1) construction and infringement of claim 17 of the '027 patent and (2) obviousness under 35 U.S.C. 103. The Commission has determined not to review the remainder of the ID, including the ALJ's claim construction. With regard to the portions of the ID that will be reviewed, the Commission is particularly interested in the following issues:

1. Whether the ALJ erred in construing the language of claim 17, "electrical connections between electrical terminals of the device and a plurality of conductors arranged substantially parallel to one another," as requiring that each of the conductors be substantially parallel to all the other conductors. If the ALJ erred in construing claim 17, what is the correct construction of that claim, and given that construction, (i) is the claim infringed by any of respondents' "opposite-sided" gated imported products, and (ii) is the claim practiced by the domestic industry.

2. Whether the ALJ erred, as a factual matter, in finding that none of respondents' imported products infringe claim 17 of the '027 patent, as claim 17 was construed by the ALJ. Specifically, the parties are asked to identify any imported products in evidence in which

all conductors are arranged substantially parallel to one another, and further, to address whether such products are encapsulated by a process which uses "opposite-side" gating. The parties are also requested to brief the issue of whether claim 17, as construed by the ALJ, is practiced by the domestic industry.

3. Whether respondents have shown by clear and convincing evidence that the '027 patent is invalid for obviousness under 35 U.S.C. 103. In particular, the parties are asked to address: (1) the differences between the claimed invention as a whole and the prior art, as that prior art has been identified by the ALJ, and (2) the objective indicia of nonobviousness, with citations to relevant evidence of record. With respect to commercial success, the parties are requested to brief the issue of whether the ALJ's reliance on pre-1975 information is prejudicial to respondents and, if so, whether the Commission's reliance on pre-1975 information would be prejudicial, in light of this opportunity to readdress commercial success.

In connection with final disposition of this investigation, the Commission may issue (1) an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) cease and desist orders that could result in respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. The Commission is particularly interested in comments addressing the nature of any remedy that would be appropriate in light of the determination that respondent Analog Devices, Inc., holds a limited license under the '027 patent.

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed.

Written Submissions

The parties to the investigation are requested to file written submissions on the issues under review. Additionally, the parties to the investigation, interested government agencies, and any other interested persons are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Complainant and the Commission investigative attorneys are also requested to submit proposed remedial orders for the Commission's consideration. The written submissions and proposed remedial orders must be filed no later than the close of business on December 16, 1991. Reply submissions on these issues must be filed no later than the close of business on December 23, 1991. No further submissions will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file with the Office of the Secretary the original document and 14 true copies thereof on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment is granted by the Commission will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and §§ 210.54–.55 (1989) of the Commission's Interim Rules of Practice and Procedure (19 CFR 210.54–55 (1989)).

By order of the Commission.

Dated: December 3, 1991.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–29599 Filed 12–10–91; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–326]

Notice of Decision Not To Review an Initial Determination Terminating the Investigation

In the Matter of certain scanning multiple-beam equalization systems for chest radiography and components thereof.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination terminating the above-captioned investigation on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: P.N. Smithey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3061. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION:

Background

The subject investigation was instituted to determine whether Oldelft Corporation of America, Delft Instruments Medical Imaging BV, and BV Optische Industrie "De Oude Delft" violated section 337 of the Tariff Act of 1930 (19 U.S. C. 1337) in the importation or sale of certain scanning multiple-beam equalization systems for chest radiography and components thereof from the Netherlands. Each respondent was accused of direct, contributory, or induced infringement of multiple apparatus and method claims of U.S. Letters Patents 4,953,189 and 4,953,192. The investigation was based on a section 337 complaint filed by Hologic Inc., the owner or exclusive licensee of the aforesaid patents. See 56 FR 8215 (Feb. 27, 1991).

On November 7, 1991, complainant Hologic and all respondents filed a joint motion to terminate the investigation without prejudice on the basis of a settlement agreement (Motion No. 326–41). On November 12, 1991, the Commission investigative attorneys filed a public interest statement in support of the motion. On November 13, 1991, the presiding administrative law judge issued an initial determination (Order No. 34) ("the ID") granting the motion. See 56 FR 58587 (Nov. 20, 1991) and 19 CFR 210.51(b)(2) and 210.53(c)(1) (1991).

No party petitioned for review of the ID, and there were no comments from the public or other federal agencies. The Commission determined that there was no reason to review the ID *sua sponte* under 19 CFR 210.55 (1991). The ID has thus become the Commission's final determination on the motion in question.[1] See 19 CFR 210.53(h) (1991). The investigation has been terminated without prejudice and with no determination as to whether the respondents violated section 337 as alleged in Hologic's complaint. See 19 U.S.C. 1337(c) and 19 CFR 210.51(b) (1) and (2) (1991).

Public Inspection

The documents cited in this notice and all other nonconfidential documents on the record of this investigation will be made available for public inspection upon request during official business hours (8:45 a.m. to 5:15 p.m., Monday through Friday) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Docket Section—room 112, Washington DC 20436, telephone 202–205–1802.

By Order of the Commission.

Dated: December 3, 1991.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–29600 Filed 12–10–91; 8:45 am]

BILLING CODE 7020–02–M

[Investigation Nos. 701–TA–210, 211 and 731–TA–167, 168 (Preliminary)]

Certain Table Wine From France and Italy

AGENCY: United States International Trade Commission.

ACTION: Vacatur of affirmative preliminary injury determinations; reinstatement of negative preliminary injury determinations.

SUMMARY: On March 2, 1984, the Commission issued negative preliminary injury determinations in the above-identified investigations. 49 FR 10587 (March 21, 1984). Subsequently, petitioners brought a civil action in the U.S. Court of International Trade (CIT), seeking review of those determinations. *American Grape Growers Alliance for Fair Trade, et al. v. The United States, et al.* (Court No. 84–4–00575).

On August 8, 1985, the CIT issued a judgment reversing the Commission's determinations and remanding the case to the Commission for further proceedings consistent with its opinion. The Commission appealed the CIT's judgment to the U.S. Court of Appeals for the Federal Circuit (Federal Circuit). The CIT's judgment was not stayed during the appeal. Therefore, the Commission, in compliance with the CIT's judgment, issued affirmative preliminary injury determinations on December 3, 1985. 50 FR 50853 (December 12, 1985).

On April 7, 1986, the Federal Circuit issued an order remanding the case to the CIT. On July 12, 1991, the CIT issued its decision on remand, in which it remanded the case to the Commission. In the memorandum opinion which accompanied its judgment, the CIT indicated that its August 8, 1985, judgment had been vacated and directed the Commission to vacate its 1985 affirmative preliminary determinations.

On October 29, 1991, the CIT granted the joint motion of the Commission and plaintiffs (petitioners) to vacate the July 12, 1991, judgment and to dismiss with prejudice the civil action seeking review of the Commission's 1984 negative preliminary injury determinations.

The CIT's October 29, 1991, order specifically provides that it does not affect the previous vacatur of the CIT's August 8, 1985, judgment or the instruction in the CIT's July 12, 1991, memorandum opinion directing the Commission to vacate its 1985 affirmative preliminary injury determinations which were based on that judgment. This notice constitutes vacatur of the Commission's 1985 affirmative preliminary injury determinations. The effect of such vacatur is to reinstate the Commission's 1985 negative preliminary injury determinations.

EFFECTIVE DATE: October 29, 1991.

FOR FURTHER INFORMATION CONTACT: Wayne Herrington (202–205–3092), Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Authority: This investigation is being terminated under authority of the judgments and orders identified above and the Tariff Act of 1930, title VII.

By order of the Commission.

Dated: December 2, 1991.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–29601 Filed 12–10–91; 8:45 am]

BILLING CODE 7020–02–M

[1] Clarification: The ID states at page 2 that "(i) in the absence of any suggestion that the (settlement) agreement is not in the public interest, it is assumed that the Commission will not want to make its own record on this issue." The Commission notes that while it generally does not order the submission of public interest statements from parties following the issuance of an ID granting a motion for termination on the basis of a settlement agreement, the interim rules require the Commission to solicit comments on the ID from the public and other federal agencies and to consider any comments that are received, before determining whether to adopt the ID and terminate the investigation. See 19 CFR 210.53(e) and 210.51(b)(2) (1991). (See also 56 FR 58587 (Nov. 20, 1991).)

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Ms. Lin Liu on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Lewis Arnold, on (202) 514–4305. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible.

Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Lewis Arnold, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

Extension of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or in the Method of Collection

(1) Application for permit to export controlled substances.

(2) DEA Form 161, Drug Enforcement Administration.

(3) On occasion.

(4) Businesses or other for-profit. 21 CFR 1312.22 requires individuals who export controlled substances in Schedules I & II to obtain a permit from DEA. Information is used to issue export permits and exercise control over exportation of controlled substances and compile data for submission to the UN for treaty requirements.

(5) 871 annual responses at .247 hours per response.

(6) 215 annual burden hours.

(7) Not applicable under 3504(h).

Public comment on this item is encouraged.

Dated: December 6, 1991.

Lewis Arnold,

Department Clearance Officer, Department of Justice.

[FR Doc. 91-29576 Filed 12-10-91; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Alba-Waldensian, Inc., et al., Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix of this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 23, 1991.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 23, 1991.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, Washington, DC 20210.

Signed at Washington, DC this 25th day of November 1991.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Alba-Waldensian, Inc. (Co)	Chilhowie, VA	11/25/91	11/12/91	26,586	Women's knitted Intimate Apparel.
American National Can (USWA)	Edison, NJ	11/25/91	11/18/91	26,587	Aerosol Containers.
Atlas Wireline Services (Co)	Houston, TX	11/25/91	11/12/91	26,588	Evaluation Services for Gas Drilling.
Baroid Corp, Baroid Drilling Fluids (Co)	Houston, TX	11/25/91	11/08/91	26,589	Oilfield Services.
Baroid Corp, Sperry-Sun Drilling (Co)	Houston, TX	11/25/91	11/08/91	26,590	Oilfield Services.
Baroid Corp, Sperry-Sun/Logging (Co)	Houston, TX	11/25/91	11/08/91	26,591	Oilfield Services.
Beautiful Blouses ILGWU	Wilkes-Barre, PA	11/25/91	07/16/91	26,592	Women's blouses.
Coastal Oil and Gas Corp (Wkrs)	Houston, TX	11/25/91	11/11/91	26,593	Crude Oil.
Dana Corp (Wkrs)	Fogelsville, PA	11/25/91	11/14/91	26,594	Internal Engine Parts and Chassis Parts.
Dynac Corp (Wkrs)	St. Joseph, MI	11/25/91	11/15/91	26,595	Car and Truck Parts.
Epson Portland, Inc. (Wkrs)	Hillsboro, OR	11/25/91	10/24/91	26,596	Computers.
Etonic Warehouse (Co)	Lewiston, ME	11/25/91	11/08/91	26,597	Shoes.
Ferro Corp, Refractories Div (GMP)	Sebring, OH	11/25/91	10/31/91	26,599	Ceramic Products.
General Safety Corp (Wkrs)	Mt. Clemens, MI	11/25/91	10/31/91	26,599	Auto Safety Belts.
GP/Sorenson's (Wkrs)	Glasgow, KY	11/25/91	10/22/91	26,600	Parts for cars, trucks, tractors.
Holt-Williamson Mfg Co (Wkrs)	Fayetteville, NC	11/25/91	11/14/91	26,601	Yarn.
International Drilling Fluids, Inc (Wkrs)	New Orleans, LA	11/25/91	11/14/91	26,602	Drilling Fluids.
J.C. Boardman (Wkrs)	Wallingford, CT	11/25/91	11/05/91	26,603	Silver and Pewder Holloware.
Kaiser Aluminum Corp USWA	Toledo, OH	11/25/91	11/13/91	26,604	Aluminium Coils.
LeRoi Princeton Hosiery Mill (Wkrs)	Princeton, KY	11/25/91	09/26/91	26,605	Hosiery, Tights, Infant Sleepwear.
Logtech Wireline Services, Inc. (Wkrs)	Edmond, OK	11/25/91	11/12/91	26,606	Oil Drilling.
Mercury Marine (Wkrs)	Fond du Lac, WI	11/25/91	11/18/91	26,607	Outboard Engines.
Micromatic Textron (Wkrs)	Pendleton, IN	11/25/91	11/15/91	26,608	Abbrasive Honing Stones.
Nicor Exploration and Production (Wkrs)	Denver, CO	11/25/91	11/18/91	26,609	Oil and Gas.
Oblon Denton Co (Wkrs)	Oxford, MS	11/25/91	11/12/91	26,610	Infant's and Children's Sleepwear.
Ozalid Corp (IAM)	Binghamton, NY, 14	11/25/91	11/14/91	26,611	Copiers Machines and Supplies.
Rushton Mining Co (Wkrs)	Philipsburg, PA	11/25/91	11/11/91	26,612	Coal Mining.
Seagate Technology (Wkrs)	Delray Beach, FL	11/25/91	11/13/91	26,613	Repair Disc Drives.
Sequent Computer Systems (Wkrs)	Beavertown, OR	11/25/91	11/02/91	26,614	Midrange Computer Systems.
Tri-State Oil Tools, Inc (Wkrs)	Bossier City, LA	11/25/91	11/11/91	26,615	Oil Well Servicing.
Tuboscope, Inc. (Wrks)	Williston, ND	11/25/91	11/07/91	26,616	Oilfield Services.

[FR Doc. 91-29513 Filed 12-10-91; 8:45 am]

BILLING CODE 4510-3-M

Hanes Hosiery et al.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of November 1991.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-26,328; Hanes Hosiery, LaGrante, GA

TA-W-26,327; Dyco Electronics (II), Inc., Angola, NY

TA-W-26,353; CF & I Steel Corp., Pueblo, CO

TA-W-26,204; American Laminators, Inc., Swisshome, OR

TA-W-26,397; Tex-Tin Corp., Texas City, TX

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-26,389; Mason Lumber Products, Inc., Beaver, WA

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-26,352; Carl Oil & Gas Co., Corpus Christi, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-26,264; Aeroquip Corp., Heber Springs, AR

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-26,372; U.S. Shoe Corp., Cincinnati, OH

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-26,380; Eastman Christensen, Houston, TX

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-26,453; Chasco Ent., Independence, LA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-26,385; Gold Line Connector, Inc., New Bedford, MA

The investigation revealed that criterion (1) has not been met. A significant number of proportion of the workers did not become totally or partially separated as required for certification.

Affirmative Determinations

TA-W-26,410; Halliburton Services, Carrizo Springs, TX

A certification was issued covering all workers separated on or after January 1, 1991.

TA-W-26,314; Swingline, Inc., Long Island City, NY

A certification was issued covering all workers separated on or after August 23, 1990.

TA-W-26,386; Gold Line Connector, Inc., Caribou, ME

A certification was issued covering all workers separated on or after September 11, 1990.

TA-W-26,423; Weldotron Corp., Piscataway, NJ

A certification was issued covering all workers separated on or after October 2, 1990.

TA-W-26,388; Linnton Plywood Association, Portland, OR

A certification was issued covering all workers separated on or after September 17, 1990.

TA-W-26,325; Corbin & Russwin Architectural Hardware, A Black & Decker Co., Berlin, CT

A certification was issued covering all workers separated on or after August 16, 1990.

TA-W-26,286; United Apparel, Newport, PA

A certification was issued covering all workers separated on or after August 19, 1990.

TA-W-26,343; Tektronix, Inc., Beaverton, OR

A certification was issued covering all workers separated on or after July 15, 1990 and before December 31, 1992.

TA-W-26,367; Pathfinder Mines Corp., Shirley Basin, NY

A certification was issued covering all workers separated on or after September 9, 1990.

TA-W-26,368; Quanex Corp., Michigan Seamless Tube Div., South Lyon, MI

A certification was issued covering all workers separated on or after September 6, 1990.

TA-W-26,392 and TA-W-26,393; Pacific Enterprises Oil Co., Houston, TX and Denver, CO

A certification was issued covering all workers separated on or after September 16, 1990.

TA-W-26,394 and TA-W-26,395; Pacific Enterprises Oil Co., Dallas, TX and Casper, WY

A certification was issued covering all workers separated on or after September 16, 1990.

I hereby certify that the aforementioned determinations were issued during the month of November, 1991. Copies of these determinations are available for inspection in room C-4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above address.

Dated: December 2, 1991.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 91-29574 Filed 12-10-91; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Vermont State Standards; Approval

1. Background

Part 1953 of title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant

Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State Plan, which has been approved in accordance with section 18(c) of the Act and 29 CFR part 1902. On October 16, 1973, notice was published in the Federal Register (38 FR 28658) of the approval of the Vermont State Plan and the adoption of subpart U to part 1952 containing the decision.

The Vermont State Plan provides for the adoption of Federal standards as State standards after:

a. Publishing for two (2) successive weeks, in three (3) newspapers having general circulation in the center, northern and southern parts of the State, an intent to amend the State Plan by adopting the standard(s).

b. Review of standards by the Interagency Committee on Administrative Rules, State of Vermont.

c. Approval by the Legislative Committee on Administrative Rules, State of Vermont.

d. Filing in the Office of the Secretary of State, State of Vermont.

e. The Secretary of State publishing, not less than quarterly, a bulletin of all standard(s) adopted by the State.

The Vermont State plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. By letter dated October 25, 1991, from Dana J. Cole-Levesque, Commissioner, Vermont Department of Labor and Industry, to John B. Miles, Jr., Regional Administrator; and incorporated as part of the plan, the State submitted updated State standards identical to 29 CFR parts 1910; 1926 an 1928; and subsequent amendments thereto, as described below:

(1) Amendment to 29 CFR 1910.211, Presence Sensing Device Initiation of Mechanical Power Presses; Final Rule (53 FR 8353, dated 3/14/88).

(2) Amendment to 29 CFR 1910.217, Presence Sensing Device Initiation of Mechanical Power Presses; Final Rule (53 FR 8353, dated 3/14/88).

(3) Amendment to 29 CFR 1926, Occupational Safety and Health Standards-Excavations; Final Rule (54 FR 45894, dated 10/31/89).

(4) Amendment to 29 CFR 1928.110, Field Sanitation; Final Rule (52 FR 16095, dated 5/1/87).

These standards became effective on January 10, 1990 and October 30, 1991 pursuant to section 224 of State Law.

2. Decision

Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards, and are accordingly approved.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, 133 Portland Street, Boston, Massachusetts 02114; Office of the Commissioner, State of Vermont, Department of Labor and Industry, 120 State Street, Montpelier, Vermont 05602, and the Office of State Programs, room N3700, 200 Constitution Avenue, NW., Washington, DC 20210.

4. Public Participation

Under 29 CFR 1953.3(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplements to the Vermont State Plan as proposed changes and making the Regional Administrator's approval effective upon publication for the following reason:

1. These standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The Standards were adopted in accordance with the procedural requirements of the State Law which included public comment, and further public participation would be repetitious.

This decision is effective December 11, 1991.

(Sec. 18, Pub. L. 91-596, 894 Stat. 1608 (29 U.S.C. 667))

Signed at Boston, Massachusetts, this 21st day of November, 1991.

Cindy Ann Coe,

Acting Regional Administrator.

[FR Doc. 91-29575 Filed 12-10-91; 8:45 am]

BILLING CODE 4510-26-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The U.S. Nuclear Regulatory Commission has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

1. Type submission, new, revision, or extension: Revision.

2. The title of the information collection: Final Rule on Nuclear Power Plant License Renewal, 10 CFR Part 54

3. The form number if applicable: Not applicable

4. How often the collection is required: One-time submission with application for renewal of an operating license for a nuclear power plant and occasional collections for holders of renewed licenses.

5. Who will be required or asked to report: Nuclear power plant licensees who wish to renew their operating licenses.

6. An estimate of the number of responses: It is estimated that as many as 100 licensees may take advantage of this provision over the next forty years. It is anticipated that 2 responses will be received during the requested three-year clearance period.

7. An estimate of the total number of hours needed to complete the requirement or request: Approximately 30,000 hours annually per licensee (60,000 hours annual total).

8. An indication of whether Section 3504(h), Pub. L. 96-511 applies: Applicable

9. Abstract: The Atomic Energy Act, which permits renewal of licenses, and the license renewal rule already in effect (10 CFR 50.51) do not contain specific procedures, criteria, and standards that must be satisfied in order to renew a license. The new final rule (10 CFR part 54) will establish the procedures, criteria, and standards governing nuclear power plant license renewal, including information submittal and recordkeeping requirements.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW., Lower Level, Washington, DC 20037.

Comments and questions can be directed by mail to the OMB reviewer: Ronald Minsk, Office of Information and Regulatory Affairs (3150-0155), NEOB-3019, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395-3084. The NRC Clearance Officer is Brenda J. Shelton, (303) 492-8132. Dated at Bethesda, Maryland, this 2nd day of December, 1991.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 91-29586 Filed 12-10-91; 8:45 am]

BILLING CODE 7590-01-M

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from November 18, 1991, through November 29, 1991. The last biweekly notice was published on November 27, 1991.

Notice of Consideration of Issuance of Amendment To Facility Operating License And Proposed No Significant Hazards Consideration Determination And Opportunity For Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By January 10, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the

Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: October 30, 1991

Description of amendment request: The proposed amendment would revise Technical Specification 3.3.2-2 by adding new isolation signals for the Reactor Water Cleanup (RWCU) system and by revising the existing setpoint for the delta-flow timer isolation signal. The new signals will initiate an RWCU system isolation based on high temperature or high delta temperature in containment rooms where the "cold" portion of RWCU piping is routed. The RWCU delta flow timer setpoint will be extended from 45 seconds to 10 minutes.

These proposed changes are intended to retain the capability for detection of leakage from the RWCU cold leg piping, while reducing the high number of spurious system isolations that have been experienced at Perry.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes deal only with leak-detection systems that respond to a leak or break that has already been postulated to occur. The addition of new temperature-based isolation signals or the extension of the delta-flow timer length will have no impact on the probability of occurrence of the postulated break, since they do not affect the integrity of the piping boundary.

The RWCU delta-flow isolation is not used in any of the USAF Chapter 6 or Chapter 15 Accident Analyses. The most severe RWCU line break would be a double-ended shear of a portion of the line. For the worst-case Containment Pressurization analysis, RWCU is isolated by the redundant ambient temperature or the redundant delta-temperature instruments, which will be added to all the RWCU rooms in the Containment as a result of this change request. For the worst-case RWCU Loss of Coolant analysis, in the event that normal feedwater makeup to the vessel is lost or cannot sustain reactor water level such that PRV Level 2 is reached, fuel damage will be precluded by the resultant isolation of RWCU. Changing the delta-flow timer length and adding new temperature-based isolations has not changed this bounding accident. In addition, flooding effects and equipment qualification requirements remain unchanged and bounded by the postulated guillotine break analysis. Dose consequences also remain bounded, by the Main Steam Line Break Outside of Containment analysis. Therefore the consequences of previously analyzed accidents has also not changed.

2. The proposed change does not create the possibility of a new or different kind of accident.

The leak detection system provides a monitoring function only. As discussed above, the simple addition of RWCU leak detection devices or the extension of time delays on leak detection devices does not affect the integrity of the piping boundary. It also does not interface with systems other than RWCU.

Loss of Coolant Accidents (LOCA) both small and large, have been previously analyzed in the USAR. These analyses have included leak sizes up to and including the Recirculation line break. They have also examined breaks in the RWCU system, up to and including guillotine breaks of the system. These RWCU breaks have already been postulated inside the containment, where these RWCU rooms are located. Any amount of leakage resulting from a leak or break in the RWCU system is still bounded by those existing analyses, therefore no new or different kind of accident has been created by the proposed change.

3. The proposed change does not involve a significant reduction in the margin of safety.

As discussed above, the RWCU Delta Flow isolation trip signal is not used in any of the accident analyses since the isolation is assumed to be provided by the RPV Level 2 isolation or the temperature-based isolations. This proposed change does not result in the RWCU Delta flow trip becoming the bounding isolation signal. Therefore the margin of safety has not been reduced by the proposed change.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: October 30, 1991

Description of amendment request: The proposed changes to Technical Specification (TS) Section 3.1.3.2, "Control Rod Maximum Scram Insertion Times," would add a phrase in Action a.1 to allow continued operation if the compensatory measures of Action b are carried out. The changes would also remove the references to "fast" control rods in Actions a.3 and a.4, in order to avoid the possibility of the TS leading to an unnecessary reactor shutdown. The proposed changes would clarify the intent of the TSs, which is to allow continued plant operation with a limited number of inoperable control rods under specified conditions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. This change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes to ACTION a.1 and c.2 ensure that the intent of the current Actions remains unchanged. In the event a control rod exceeds the maximum scram insertion time, operation may continue if specified compensatory actions are taken. The change also removes words from ACTIONs a.3 and a.4 that are not consistent with the basis for the scram time specification, thus restoring the original intent of the Actions. ACTION c.4 is simply revised to be consistent with the change to ACTION a.3. The proposed wording changes do not affect the probability of occurrence of an accident since they only address administrative declarations of control rod inoperability and administrative checks of control rod spacing in order to ensure compliance with the basis of the Specification. The proposed wording does not change the basis for the scram time Specification requirements, and since the basis for the Specification will still be met if the proposed Actions are met, the consequences of any previously evaluated accident also do not change.

2. This proposed change does not create the possibility of a new or different kind of accident from any previously evaluated. The proposed change does not change the mechanism by which scrams are accomplished or scram times are calculated, nor does it change any of the hardware associated with the control rod drives or the scram pilot solenoids.

3. The proposed change does not involve a significant reduction in a margin of safety. The proposed change does not reduce a margin of safety as defined in the Bases for the Technical Specifications. This change does not modify any of the maximum scram insertion time. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: October 30, 1991

Description of amendment request: The proposed change to Technical Specification (TS) Tables 3.3.2-1 and 3.3.3-1 would clarify the logic for the instrumentation used to isolate the High Pressure Core Spray (HPCS) Test Return Valve and initiate the HPCS system. The change would also identify the appropriate actions to be taken when one or more of the HPCS logic inputs from the reactor vessel level instruments (Level 2 or Level 8) or the high drywell pressure instruments become inoperable. These changes would clarify the intent of the TSs to assure compliance with the plant's licensing basis and to avoid unnecessary plant shutdowns due to incorrect interpretations of the current wording.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. These changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

None of the proposed changes involve any design changes to the plant, nor do they involve changes that could affect any previous accident analyses. The major changes to Table 3.3.2-1 simply involve a better identification of the Division 3 instrumentation used to isolate one containment isolation valve, 1E22-F023. The change will result in more conservative and appropriate actions for an inoperability of one or more of these Division 3 instruments than is presently required by the specifications. The new Action will ensure that the isolation function remains capable of completing its function, or that the isolation valve is closed. Thus, the probability or consequences of any previously evaluated accident would remain the same or decrease as a result of this part of the change. The rest of the changes to Table 3.3.2-1 are editorial, and therefore have no bearing on the probability or consequences of an accident.

The changes to Table 3.3.3-1 also will not increase the probability or consequences of any previously evaluated accident. The change being made to Action 34 is being made to correct an error which has previously existed in the Action statement, namely it inferred that two TRIP SYSTEMs exist for the Reactor Vessel Water Level - Low Level 2, and the Drywell Pressure - High TRIP FUNCTIONs. The revised Action statement will reflect the single trip system that exists, and will always require that the TRIP FUNCTION remain capable of performing its function or that the HPCS system be declared inoperable. The length of time permitted for the HPCS system to be inoperable has not changed as a result of this request. The other change to Table 3.3.3-1 involves changing which ACTION applies to the Reactor Vessel Water Level - High Level 8 TRIP FUNCTION. The revised ACTION again always assures that the TRIP FUNCTION remains operable, or requires that the HPCS system be declared inoperable. As previously stated this does not affect any previous accident analyses.

2. The proposed changes do no create the possibility of a new or different kind of accident from any previous [sic] evaluated. None of the proposed changes invlove any actual design changes to the plant, nor any changes to plant procedures, operation of the associated systems or reliability of the instruments. As stated above, these change requests are either clarifying the presently existing instrumentation for Containment Isolation valves and HPCS Actuation instrumentation, or are editorial changes. Therefore, there is no new or different type of accident being created as a result of these changes.

3. The proposed changes do not involve a significant reduction in the margin of safety.

The revised ACTION statements will always maintain the TRIP FUNCTIONS of the instrument channels involved or will require that the HPCS system be declared inoperable. In addition, the revised ACTION for the Division 3 isolation instrumentation channels will require that if the isolation instrumentation function cannot be maintained, that the 1E22-F023 valve be shut and deenergized thus providing the intended safety function of the inoperable instruments. The remaining changes are editorial changes to make the Technical Specifications consistent. Thus the margin of safety will not be affected by these proposed changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three

standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: October 28, 1991

Description of amendment request: The proposed amendment would change the Palisades Technical Specifications to allow the storage of fuel assemblies enriched to 4.20 weight percent Uranium-235 in the new fuel racks and fuel assemblies enriched to 4.40 weight percent in the Region I racks in the spent fuel pool. This change is the result of changes to the enrichment of the Palisades fuel in order to design a low leakage core to minimize the effect of fluence on the reactor vessel, while maintaining a reasonable length fuel cycle.

Specifically, changes are proposed to Technical Specification Sections 5.4.1 and 5.4.2 to update the appropriate weight percent maximum enrichments, add descriptive wording, and delete the previous analyzed requirements and associated references.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

In compliance with ANSI/ANS 57.3-1983, an evaluation was completed on the potential adverse effects of fuel handling accidents in the new fuel storage racks when new fuel of the proposed maximum enrichment is stored in them. The new fuel storage array is a dry storage rack. The consequences of a fuel handling accident (i.e. a fuel assembly lying on top of the racks), is the only previously evaluated accident where the probability and consequences could be affected by this change. The probability of a fuel handling accident is not increased as the method for fuel handling has not changed and as long as the new fuel racks remain dry, the consequences of a fuel handling accident are not affected. As stated in the safety analysis, the infinite multiplication factor (K_{inf}) for dry 5.0 w/o U_{235} uranium oxide systems in less than 0.8; thus, K_{inf} for the proposed maximum 4.20 w/o U_{235} new fuel assemblies stored in the new fuel racks would be less than the 0.95 limit stipulated by ANSI/ANS 57.3-1982 and the Palisades Technical Specifications. Additionally, this change in maximum allowed w/o U_{235} enrichment cannot affect the probability of the racks being flooded.

The results of a fuel handling accident in the new fuel pit when the new fuel pit is flooded have not been evaluated because the probability of flooding the new fuel pit is very small and the probability of the new fuel pit flooding while fuel handling is taking place is so small as to be considered insignificant. Special features of the new fuel racks which make the probability of their flooding very small are:

A. All cells and spaces between cells have openings at the bottom to facilitate draining; and

B. The racks are seismically mounted 3 ft above a steel grating which is 12 ft above the floor of the normally dry new fuel pit.

This proposed change, which only affects the maximum U_{235} enrichment stored in the new fuel racks, does not change the location of the new fuel racks and thus cannot affect the probability of the new fuel racks being flooded.

Therefore, since the neutron multiplication factor, K_{eff}, remains below 0.95, the method of handling new fuel is not changed and the probability of flooding is not affected, neither the probability nor the consequences of a previously evaluated accident is significantly increased by the proposed change in the maximum allowed U_{235} enrichment in the new fuel racks.

In the spent fuel pool, the fuel handling (a dropped fuel assembly) accident is the only previously evaluated accident considered credible as being affected by this change. If a fuel assembly were to be dropped on the spent fuel rack and lay horizontally across the top of the rack, the assembly would be approximately seven inches above the active portion of the assemblies in storage. Seven inches of water is enough to neutronically decouple the dropped assembly from those being stored in the racks. Except when a fuel rack is removed to permit cask loading, the rack design prevents a vertical fuel assembly from being placed outside the spent fuel storage rack since the distance between the racks and between the racks and the pool walls is less than the width of the fuel assembly. During cask loading, a Region II rack in the cask loading area of the fuel pool loading, a Region II rack in the cask loading area of the fuel pool (Northeast corner) is removed to provide space for the cask and a space is opened adjacent to Region II racks where a fuel assembly could be dropped. Siemens Nuclear Power Corporation is performing an analysis of the criticality result of dropping a fuel assembly having 4.40 w/o U_{235} enrichment adjacent to the Region II (Westinghouse) racks in the space opened for cask loading by removal of the Region II rack in the northeast corner of the spent fuel pool. Until that analysis is complete and the conclusion is that such placement will cause K_{eff} to be [less than or equal to] 0.95, no spent fuel racks will be removed from the spent fuel pool. Thus, in the spent fuel pool, neither the probability nor the consequences of a previously evaluated accident is significantly increased.

To summarize, changing the enrichment of the fuel assembly will not change the method of fuel handling and therefore the probability of a fuel handling accident is not increased. Neither will this change, which only affects fuel enrichment, adversely effect the consequences of a previously evaluated fuel handling accident so as to cause K_{eff} in either the new fuel racks or the spent fuel pool to be greater than 0.95. Thus, this proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated

This change only involves the maximum w/o U_{235} enrichment for fuel stored in the new fuel racks and spent fuel pool. The method of handling fuel has not been changed. Although the storage location of certain fuel in the spent fuel pool has been further restricted (fuel with initial enrichment of U_{235} greater than 3.27 w/o is allowed to be stored in Region I only), this change does not create the possibility of a new of different kind of accident (misplaced fuel assembly) from any accident previously evaluated if fuel handling is in accordance with the proposed change. Thus, this proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in the margin of safety.

The margin of safety, when applied to fuel racks, addresses (1) nuclear criticality concerns, (2) thermal hydraulic considerations, and (3) mechanical, material and structural considerations.

(1) The established criterion in ANSI/ANS 57.2-1983, ANSI/ANS 57.3-1983 and the Palisades Technical Specifications for criticality is that the neutron multiplication factor (K_{eff}) in the spent fuel storage racks and the new fuel storage racks shall be less than or equal to 0.95 including all uncertainties under all conditions. The criticality safety analysis for the spent fuel pool Region I racks concludes this margin of safety is maintained in the spent fuel pool when the maximum enrichment of fuel stored in the Region I is increased from 3.27 w/o U_{235} to 4.40 w/o U_{235}. Similarly, the criticality safety analysis for the new fuel pool Region I racks, concludes that the [less than or equal to] 0.95 K_{eff} margin is maintained in the new fuel racks when the allowed enrichment of new fuel stored in the new fuel racks is increased from 41.24 grams U_{235} per centimeter (3.317 w/o) to 4.20 w/o U_{235} average assembly planar enrichment.

(2) The change in maximum allowed enrichment has no effect on the thermal hydraulic condition of the new fuel racks since the fuel has not been irradiated. The thermal hydraulic condition of the Region I spent fuel racks will not be significantly affected since decay heat is more a function of the power level, time at power and time subcritical than a function of the enrichment.

(3) The mechanical, material and structural conditions are not significantly affected by

the proposed increase in enrichment since the fuel assembly weight, size and shape will not change.

Thus, this proposed change would have no significant effect on the criticality, thermal hydraulic condition, and material, mechanical and structural condition of the new fuel racks and spent fuel storage pool and does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: L. B. Marsh.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: November 1, 1991

Description of amendment request: This amendment would change the Palisades Technical Specifications in support of the cycle 10 operation with changes to the fuel design and the fuel management scheme for a low leakage core. Additionally, a change is proposed to the maximum boron concentration for the Safety Injection and Refueling Water Tank and Safety Injection Tanks in order to facilitate plant operations.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed Technical Specifications changes maintain the existing safety margin and are the result of changes to the fuel design and the fuel management scheme and a desire for wider operating limits for the Safety Injection Refueling Water Tank (SIRWT) and Safety Injection Tank (SIT) boron concentration.

The proposed cycle 10 technical specifications changes require that Palisades licensing basis events be reviewed for possible reanalysis. Siemens Nuclear Power Corporation report "Palisades Cycle 10: Disposition and Analysis of Standard Review Plan Chapter 15 Events", (EMF-91-176), provides this review, lists each Standard Review Plan (SRP) Chapter 15 event, indicates whether that event is to be reanalyzed for this submittal and, additionally, provides a reference between SRP Chapter 15 event numbers and the Palisades Updated FSAR. EMF-91-176 also lists the results of Anticipated Operational Occurrences and Postulated Accidents reanalyzed for this submittal and contains a complete summary of the plant licensing basis.

The MDNBR analyses performed for Cycle 10 incorporated Siemens Nuclear Fuels Corporation's ANFP critical heat flux correlation, the second full reload of high thermal performance (HTP) spacer fuel, Reload N specific fuel design (eg, fuel rod enrichments, loading, etc.) and an axial shape characteristic of full power control rod position. The effect of the aforementioned items more than offsets the departure from nucleate boiling ratio (DNBR) margin lost due to increasing assembly radial peaking. In general, there will be an increase in thermal margin for cycle 10 relative to cycle 9. The minimum DNBR (MDNBR) for one event, the dropped bank, decreased slightly relative to cycle 9 due to a larger radial peaking augmentation factor. The results reported in EMF-91-176 confirm that event acceptance criteria are met for cycle 10 operation as defined by the operating parameter ranges included in the report.

The results of the reanalysis of two events, the Radiological Consequences of Fuel Handling Accidents and the Spent Fuel Cask Drop Accident, are not included in EMF-91-176. Consumers Power Company (CPC) has determined that the Fuel Handling and Cask Drop accidents are bounded by the current FSAR analysis until the cycle 10 (Reload N) fuel reaches the exposure limit analyzed for the cycle 9 (Reload M) fuel. That exposure limit will not be reached for cycle 10 (Reload N) assemblies for two more cycles.

In summary, evaluation of existing analyses of design basis accidents (events) has shown that the existing analysis remains bounding for some previously evaluated accidents and other previously evaluated accidents require reanalysis. The reanalyses have been completed and show that there is no violation of the specified acceptable fuel design limits (SAFDL) of (1) not having the fuel experience centerline melt and (2) of there being a 95% probability with a 95% confidence level that departure from nucleate boiling will not occur. Therefore, the cycle 10 (reload N) fuel design does not increase the probability of any previously evaluated accident. The consequences of a previously evaluated accident have not increased because the proposed changes necessitated by the cycle 10 fuel design do not cause conditions which would result in a DNBR less than the technical specifications DNB safety limit.

The proposed changes to increase the maximum allowable boron concentration in the SITs and SIRWT have no effect on the SRP Chapter 15 events because the minimum boron concentration assumed for those events is not changed. The only adverse effect of the maximum boron concentration changes that can be credibly postulated is that increasing the the maximum boron concentration in SITs and SIRWT could cause boron to precipitate out of solution and interfere with core cooling during post-LOCA long term cooling. Consumers Power Company engineering analysis EA-PAH-91-04, "Effect of Increased SIRW Tank Boron Concentration Limit on Long Term Cooling," discusses the impact that raising the maximum allowed boron concentration in the SIRWT and SITs to 2500 ppm would have on boron precipitation during post LOCA long term cooling and concludes that increasing the SIRWT and SIT boron concentration limit from 2000 ppm (1.13wt%) to 2500 ppm (1.43 wt%) would have insignificant effect on the existing long term cooling analysis which shows that the minimum boron concentration which could affect long term cooling is 10.0 wt%.

The proposed change to increase the maximum boron concentration in the SITs and SIRWT does not increase the consequences of a previously evaluated accident because the minimum boron concentration value (1720 ppm) used in the Safety Analysis has not been changed. The possible increase in consequences of a LOCA (due to boron precipitation) requiring long term cooling has been analyzed and shown to be within the margin assumed by the safety analysis. The probability of a LOCA, the accident of concern, is independent of the boron concentration in the SITs and SIRWT. Thus, neither the probability nor the consequences of an accident previously evaluated is significantly increased by the proposed fuel design and boron concentration changes.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes would not create the possibility of a new or different kind of accident from any accident previously evaluated because the changes do not permit a different method of operation, but instead allow operation to take advantage of improved fuel design and safety injection boron concentration limits while meeting analyzed acceptance criteria.

3. Involve a significant reduction in a margin of safety.

The proposed changes would not involve a significant reduction in the margin of safety because the existing margin of safety is provided by existing acceptance criteria. The effects of the proposed changes have been thoroughly analyzed and do not cause the existing acceptance criteria to be exceeded. The changes related to the cycle 10 (Reload N) fuel design do not cause the Specified Acceptance Fuel Design Limits (SAFDL) to be exceeded (i.e. the fuel shall not experience centerline melt and the departure from nucleate boiling ratio (DNBR) shall have a minimum allowable limit such that there is a 95% probability with a 95% confidence level that the departure from nucleate boiling (DNB) will not occur). The changes related to increasing the maximum boron concentration in the SITs and SIRWT have no significant effect on post-LOCA long term cooling.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request

involves no significant hazards consideration.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: L. B. Marsh.

Entergy Operations, Inc., Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Unit Nos. 1 and 2 (ANO-1&2), Pope County, Arkansas

Date of amendment request: October 15, 1991

Description of amendment request: The amendment would revise the technical specifications (TS) for Arkansas Nuclear One, Units 1 and 2 (ANO-1&2), by deleting the requirement for a visual cell plate inspection of the diesel fire pump battery from ANO-1 Surveillance Requirement 4.20.3.c.1 and ANO-2 Surveillance Requirement 4.7.10.1.3.c.1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1 - Does not involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

Deleting this inspection would not involve any increase in the probability of a previously evaluated accident. As the ability of the battery to start the diesel fire pump is ensured by other surveillances performed, deleting this inspection would not impair the ability of the diesel fire pump to mitigate the consequences of a fire. No other accident as described in the Safety Analysis Report would be affected by this change, therefore, this change would not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2 - Does not create the possibility of a New or Different Kind of Accident from any Previously Evaluated.

No new or different accident from any previously evaluated would be created by deletion of the visual inspection of the cell plates for the diesel fire pump battery. This inspection has no effect on accidents of the type considered in the Safety Analysis.

Criterion 3 - Does not Involve a Significant Reduction in the Margin of Safety.

Other tests ensure the capability of the diesel fire pump battery to perform its function, therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: John T. Larkins

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: August 16, 1991

Description of amendment request: In accordance with 10 CFR 50.90, the following proposed changes to Technical Specification 3/4.3.6, "Control Rod Block Instrumentation," are being proposed:

1) The nominal trip setpoint under the Trip Setpoint column for the Rod Pattern Control System Low Power Setpoint (Table 3.3.6-2, Item 1.a) is being revised from "(*)% of RATED THERMAL POWER" to "138.0 ○ 2.3 psig**" and the associated Allowable Value is being revised from "(*)% of RATED THERMAL POWER" to "greater than or equal to 115.0 psig, less than or equal to 175.0 psig*."

2) The nominal trip setpoint under the Trip Setpoint column for the Rod Withdrawal Limiter High Power Setpoint (Table 3.3.6-2, Item 1.b) is being revised from "(*)% of RATED THERMAL POWER" to "less than or equal to 361.6 psig**" and the associated Allowable Value is being revised from "(*)% of RATED THERMAL POWER" to "less than or equal to 400 psig*."

3) Footnote "*" is being revised to delete the statement that the setpoints are to be determined during the startup test program and to add a statement that these setpoints are turbine first stage pressure values.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1) The proposed changes are consistent with the Control Rod Drop Accident (CRDA) analysis presented in Updated Safety Analysis Report (USAR) Section 15.4.9 and the Rod Withdrawal Error (RWE) analysis presented in USAR Section 15.4.2. Additionally, the proposed setpoints have been developed based upon a conservative relationship between turbine first stage pressure and reactor power level using a setpoint methodology which takes into account appropriate instrument uncertainties in accordance with Regulatory Guide 1.105. In addition, this relationship has been confirmed by measurements taken during plant startup from the second refueling outage. Further, the proposed changes do not result in any change to plant equipment or operation. Therefore, the proposed changes do not result in a significant increase in the probability or consequences of any accident previously evaluated.

2) The proposed changes do not result in any changes to plant equipment or operation. As a result, no new failure modes are introduced. The proposed changes are clearly within the limits of plant operation as described in USAR Section 7.6.1.7. Therefore, the proposed changes cannot create the possibility of a new or different kind of accident from any accident previously evaluated.

3) The proposed changes are consistent with the CRDA and RWE analyses presented in the USAR and limit plant operation to those conditions assumed in the CRDA and RWE analyses. Additionally, the proposed setpoints have been developed based upon a conservative relationship between turbine first stage pressure and reactor power level using a setpoint methodology which takes into account appropriate instrument uncertainties in accordance with Regulatory Guide 1.105. In addition, this relationship has been confirmed by measurements taken during plant startup from the second refueling outage. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Attorney for licensee: Sheldon Zabel, Esq., Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606

NRC Project Director: John N. Hannon

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: November 15, 1991

Description of amendment request: The proposed amendment would (1) revise the requirements applicable to loading fuel assemblies adjacent to Source Range Monitors (SRMs) for spiral reloading of the core; (2) add Limiting Conditions for Operation and Surveillance Requirements which incorporate requirements already specified in Duane Arnold Energy Center procedures; and (3) make

administrative and minor editoral changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed change does not increase the probability of an accident occurring because:

The propose requirement for loading fuel assemblies adjacent to SRMs will still assure that an inadvertent criticality event will not occur, while reducing the number of times fuel assemblies are moved in the core. Reducing the number of moves reduces the possibility that a fuel assembly may be dropped during a refueling.

The addition of LCOs and Surveillance Requirements will incorporate provisions already specified in DAEC procedures, other DAEC TS Sections, and BWR Standard Technical Specifications and provide consistency with other recently-docketed DAEC TS submittals and BWR Standard Technical Specifications. The incorporation of these requirements to Section 3.9 clarify and enhance the TS ability to communicate the required conditions, surveillances, and actions to be taken. Therefore, these changes do not affect the probability of an accident occurring.

The various administrative changes to Section 3.9 (reorganization, renumbering, denoting defined terms, etc.) clarify and better define current reqirements and do not affect the probability of an accident occurring.

The changes to the Bases of Section 3/4.9 only reflect the above changes to LCO and Surveillance Requirements.

The consequences of an accident are not increased because:

The consequences of an inadvertent criticality event are bounded by the Control Drop Accident as evaluated in the FSAR. The consequences of dropping a fuel assembly are bounded by the refueling accident as evaluated in the FSAR. Therefore, the proposed change will not invalidate the previously arrived at conclusions in the FSAR.

The various administrative changes to Section 3.9 (reorganization, renumbering, denoting defined terms, etc.) clarify and better define current requirements and do not affect the consequences of an accident previously evaluated.

The changes to the Bases of Section 3/4.9 reflect the above changes to LCO and Surveillance Requirements.

2. The proposed change does not create the possibility for an accident different from any previously evaluated because:

The events associated with SRM requirements during fuel assembly loading have been evaluated in the FSAR. The proposed SRM requirements during fuel assembly loading assure that core remains subcritical while establishing the minimum required SRM count rate prior to spiral reloading. Therefore, the basis for these LCO requirements have [sic] not changed.

The addition of LCOs and Surveillance requirements incorporates requirements already specified in DAEC procedures, other DAEC TS sections, and BWR Standard Technical Specifications. These added requirements clarify and better define current requirements. Therefore, these changes do not create the possibility for an accident different from any previously evaluated.

The various administrative changes to Section 3.9 (reorganization, renumbering, denoting defined terms, etc.) clarify and better define current requirements and do not create the possibility for an accident different from any previously evaluated.

The changes to the Bases of Section 3/4.9 reflect the above changes to LCO and Surveillance Requirements.

3. The margin of safety will not be reduced because:

The proposed LCO meets the intent of the current LCO in that these restrictions will assure a subcritical configuration before valid SRM response is established prior to spiral reloading of the core. Additionally, this proposed change will reduce the probability that a fuel assembly drop accident will occur during each refueling, thus, adding to the margin of safety.

The addition of LCOs and Surveillance Requirements incorporates requirements already specified in DAEC procedures, other DAEC TS sections, and BWR Standard Technical Specifications. These added requirements clarify and better define current requirements and do not affect the margin of safety.

The various administrative changes to Section 3.9 (reorganization, renumbering, denoting defined terms, etc.) clarify and better define current requirements and do not affect the margin of safety.

The changes to the Bases of Section 3/4.9 reflect the above changes to LCO and Surveillance Requirements.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Esquire, Kathleen H. Shea, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036.

NRC Project Director: John N. Hannon.

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of amendment request: November 6, 1991

Description of amendment request: The proposed amendment would modify Section 3.4.C.1 of Technical Specification 3.4, Combined Heatup, Cooldown and Pressure-Temperature Limitations, by changing the pressure limit for the Residual Heat Removal (RHR) system to 660 psig from 600 psig.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.92(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change to Technical Specification 3.4.C.1 has been evaluated against the standards of 10 CFR 50.92 and has been determined to not involve a significant hazards consideration. The proposed change does not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed. The RHR system piping and components remain within the allowable stress limits of USAS (USA Standard) B31.1-1967 for infrequent variations in pressure and/or temperature. Thus, an event challenging the RHR automatic isolation setpoint at an actual system pressure less than 660 psig does not result in an increase in the probability or consequences of an accident previously analyzed.

2. Create the possibility of a new or different kind of accident from any previously evaluated. Increasing the RHR system pressure limit does not create the possibility of a new or different kind of accident because the proposed amendment involves neither a hardware modification, nor the creation of a unique operating condition.

3. Involve a significant reduction in a margin of safety. Increasing the RHR system pressure limit does not change the results of any of the events in FSAR Chapter 14, Safety Analysis. Increasing the RHR system pressure limit does slightly expand the operating pressure range within which the RHR auto isolation could occur. However, system pressure at closure will result in a transient stress condition less than the 20% stress increase permitted by USAS B31.1-1967 for events that occur in less than 1% of the operating period.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, Maine 04578

Attorney for licensee: John A. Ritsher, Esquire, Ropes and Gray, One International Place, Boston, Massachusetts 02110-2624

NRC Project Director: Walter R. Butler

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of amendment request: November 6, 1991

Description of amendment request: The proposed amendment would remove the Technical Specification that limits the combined time interval for any three consecutive surveillance intervals to less than 3.25 times the specified surveillance interval. The proposed amendment is consistent with the guidance of U. S. Nuclear Regulatory Commission Generic Letter 89-14, Line-item Improvements in Technical Specifications—Removal of the 3.25 Limit on Extending Surveillance Intervals, dated August 21, 1989.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.92(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes to Technical Specification 4.0 have been evaluated against the standards of 10 CFR 50.92 and have been determined to not involve a significant hazards consideration. This proposed change does not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated, because the 3.25 surveillance interval extension criteria of Technical Specification 4.0 is not considered in the plant accident analysis (FSAR Chapter 14).

2. Create the possibility of a new or different kind of accident from any accident previously evaluated, because the surveillance interval will remain constrained by the 1.25 interval extension criteria for each surveillance.

3. Involve a significant reduction in a margin of safety, because deletion of the requirement that "...any three consecutive intervals must not exceed 3.25 times the surveillance interval..." will allow all surveillance intervals to be constrained by the maximum allowable extension of 25-percent of the specified surveillance interval, which will enhance safety when used during plant operation. Normal scheduling would remain at the specified surveillance interval.

Guidance has been provided in the Federal Register (51 FR 7744) for the application of standards to license amendment requests that are not likely to involve significant hazards considerations. This proposed amendment does not involve a significant relaxation of the criteria used to establish safety limits, a significant relaxation of the bases for the limiting safety system settings, or a significant relaxation of the bases for the limiting conditions for operation. Therefore, based on the guidance provided in the Federal Register and the criteria established in 10 CFR 50.92, the proposed change does not constitute a significant hazards consideration

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, Maine 04578

Attorney for licensee: John A. Ritsher, Esquire, Ropes and Gray, One International Place, Boston, Massachusetts 02110-2624

NRC Project Director: Walter R. Butler

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station Unit No. 1, Oswego County, New York

Date of amendment request: October 22, 1991, as supplemented November 19, 1991

Description of amendment request: The proposed change would (1) establish specific setpoints for the Recirculation Flow Unit Comparator and Recirculation Flow Unit Upscale Control Rod Block functions in technical specification Table 3.6.2g, and revise the operational condition (Reactor Mode Switch Position) applicability to be consistent with NUREG-0123, "Standard Technical Specifications for General Electric Boiling Water Reactors," and (2) revise the Recirculation Flow Unit Comparator, Flow Unit Inoperative and Flow Unit Upscale Control Rod Withdrawal Block Instrument Channel Calibration frequency in technical specification Table 4.6.2g to be consistent with NUREG-0123.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Recirculation Flow Unit control rod withdrawal block functions are not relied upon for accident mitigation in the analyses of abnormal operational transients or design basis accidents as presented in Section XV of the Final Safety Analysis Report. The proposed setpoints and allowable setpoint deviations are within analytical values of recirculation flow considering a quarterly surveillance period. The recirculation flow setpoints are only required to conservatively initiate a control rod withdrawal block in the RUN mode in response to Flow Unit operability concerns only. Performance of the surveillances require application of a one-half Scram signal through the APRM [average power range monitor] instruments for a lengthy period of time. Quarterly performance of these surveillances decreases the likelihood of inadvertent Scrams. Therefore, the proposed changes do not increase the probability or consequences of any accident previously evaluated.

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed setpoints are additions to the existing operational design basis but do not change the original design of the system. Neither the proposed setpoints, allowable setpoint deviations or the proposed changes to the Mode Switch Position applicability or to the surveillance frequency alter the reliability of this instrumentation or its input to the APRM Scram function. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The Recirculation Flow Units supply input to the APRM Units in order to allow automatic flow biasing of the APRM Upscale control rod withdrawal block and scram trip setting, with recirculation flow. There is no safety design basis for the Recirculation Flow Units internal monitoring trip functions: Comparator, Inoperative and Upscale. There is no reliance on the Recirculation Flow rod blocks to protect the Fuel Cladding Safety Limit, and these functions are not required to be operable in the REFUEL and STARTUP modes. At flow values greater than 100% flow, the APRM Upscale flux trip setting does not continue to increase and will provide an automatic scram above 120% of rated neutron flux. This feature ensures that the Limiting Safety System Setting is not exceeded should a Flow Unit signal fail in the high direction. The APRM Scram and APRM Rod Block analytical limits currently established in Technical Specification Figure 2.1.1 remain unchanged. With the Reactor Mode Switch in the REFUEL position, the "One Rod Out Interlock" provides a control rod block which prevents exceeding the Safety Limit. With the Reactor Mode Switch in the STARTUP position, the Intermediate Range Monitors (IRM) Scram provides protection, for the analyzed range of rod withdrawal accidents, against exceeding the fuel cladding Safety Limit. The IRM Scram is maintained up to 20% flow. This is accomplished by keeping the reactor mode switch in the STARTUP position until 20% flow is exceeded and the APRMs are on scale. Then the reactor mode switch may be switched to the RUN mode, thereby switching scram protection from the IRM to the APRM system. The APRMs are then used to monitor neutron flux.

Therefore, the proposed setpoints, applicable operational condition, and surveillance interval for these trip functions does not adversely affect a Limiting Safety

System Setting or involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502.

NRC Project Director: Robert A. Capra

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut

Date of amendment request: August 1, 1989, superseded November 19, 1991.

Description of amendment request: The proposed changes to the Technical Specification (TS) would add programmatic requirements for postaccident sampling and sampling and analysis of plant effluents. The August 1, 1989 request was published in the **Federal Register** September 20, 1989 (54 FR 38765).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

The postaccident sampling system and the Millstone Unit No. 1 stack high-range iodine and particulate samplers are a means of obtaining postaccident assessments, and alternate means are available for making such assessments should these systems become inoperable. These additional requirements for this instrumentation are presently contained in plant procedures. Therefore, there is no increase in the probability or consequences of any design basis event previously analyzed.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed change will incorporate an administrative control for the postaccident sampling system and the Millstone Unit No. 1 stack high range iodine and particulate samplers. This change does not [a]ffect station operation or design, and there is no change in plant response to any design bas[i]s event previously analyzed.

3. Involve a significant reduction in the margin of safety.

The proposed change provides administrative assurance of operability for the postaccident sampling system and the Millstone Unit No. 1 stack high range iodine and particulate samplers through implementation in the plant's Technical Specifications. Thus, there is no reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut

Date of amendment request: November 8, 1991

Description of amendment request: The proposed changes to the Technical Specification (TS) Section 5.0, "Design Features," would correct references to the Updated Final Safety Analysis Report (UFSAR).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

The proposed changes are necessary to update the Millstone Unit No. 1 Technical Specifications (page 5-1) to reflect the UFSAR. These changes make the technical specifications consistent with the associated UFSAR sections, are administrative in nature, and do not change the intent of the technical specifications. There are no hardware modifications or procedural changes associated with this change. Therefore, the proposed changes have no impact on any transient or accident, nor do they increase the probability of any event.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed changes are administrative in nature, and there are no changes in the way the plant is operated. Therefore, the potential for an unanalyzed accident is not created and no new failure modes are introduced.

3. Involve a significant reduction in a margin of safety.

The proposed changes modify the Millstone Unit No. 1 Technical Specification to accurately reflect the UFSAR and do not change actual operational limits and therefore have no impact on the margin of safety for any parameter.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: October 22, 1991

Description of amendment request: The proposed amendment extends surveillance test intervals and allowable out-of-service times for the actuation instrumentation supporting the Reactor Protection System (RPS) and Isolation Groups 1, 2, and 3 instrumentation in common with RPS instrumentation. Specifically, the proposed changes:

a) Extend the allowable out-of-service times for the Reactor Protection System instrumentation, Technical Specification 3.1.B and Table 3.1.1.

b) Change the functional test frequency for the Reactor Protection System instrumentation, Technical Specification Table 4.1.1.

c) Revise the Reactor Protection System bases to reflect the extended allowable out-of-service times and revised functional test frequencies.

d) Delete the Group designation on Table 4.1.1, delete "and normal shutdown" from Note 3 on Table 4.1.1, and revise Group "D" and "E" to Group "A" and "B" on Table 4.1.2.

e) Extend the allowable out-of-service times for the isolation instrumentation, Technical Specification Table 3.2.1.

f) Extend the functional test frequency for the Group 1, Group 2 and Group 3 isolation instrumentation, Technical Specification Table 4.2.1.

g) Add the reactor low-low water level surveillance requirements to the Group I, Main Steam Line Isolation, Technical Specification Table 4.2.1.

h) Revise the isolation instrumentation bases to reflect the extended allowable out-of-service times and minimum function test frequencies.

i) Change "3.5.D" to "3.5" in Required condition F of Technical Specification Table 3.2.1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

For the changes related to Reactor Protection System instrumentation.

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

General Electric Topical Report NEDC-30851P, concluded that the core damage frequency is decreased by one percent, and the plant capacity factor is increased by 0.1%. Therefore, this amendment will not cause an increase in the probability or consequences of an accident previously evaluated for the Monticello plant.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

These changes only affect the instrument functional testing frequency and allowable out-of-service times. No change is being made to the reactor protection system function. Therefore, the proposed amendment will not create the possibility of a new or different kind of accident.

3. The proposed amendment will not involve a significant reduction in the margin of safety

These changes will improve the performance of equipment and are intended to reduce the potential for equipment failures due to unnecessary testing. The safety limits and the limiting safety system setpoints will not be affected by these changes. No safety margins are affected.

For changes related to Group 1, 2, and 3 isolation instrumentation.

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

General Electric Topical Report NEDC-30851P, Supplement 2, concluded that changing the test interval for instrumentation common to the reactor protection system and the isolation instrumentation would change the overall initiation failure probability slightly, but the overall effect on frequency of failure to isolate would be negligible. General Electric Topical Report NEDC-31677P, concluded that the main steam line isolation failure frequency is reduced by 1.1E-08/year when the instrument test interval and allowed out-of-service times are extended. Therefore, this amendment will not cause an increase in the probability or consequences of an accident previously evaluated for the Monticello plant.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

These changes only affect the instrument functional testing frequency and allowable out-of-service times, therefore, the proposed amendment will not create the possibility of a new or different kind of accident.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

These changes will improve the performance of equipment and are intended to reduce the potential for equipment failures due to unnecessary testing. No safety margins are affected.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: L. B. Marsh.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: November 11, 1991

Description of amendment request: The proposed amendment would change Specification 2.7, "Electrical Systems," to correct inconsistencies and to provide further guidance on equipment necessary for the 161kV power supply. Additionally, administrative changes are proposed for Specification 2.7 and Table 2-10.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

Changes to the Minimum Requirements and Modification to the Minimum Requirements

The proposed changes to the minimum requirements and modification to minimum requirements do not increase the probability or consequences of an accident previously evaluated. This proposed change would allow the modification to minimum requirements that apply when the reactor is at full power to also apply when the reactor is above 300 degrees F but not critical. The consequences of an accident at full power are significantly greater than when the reactor is not critical. By not allowing the unit to be made critical unless all of the systems listed in the minimum requirements are operable ensures that the consequences would not be increased.

Changes Concerning the Operation of the 161kV Line and Associated Equipment

The proposed changes concerning the operation of the 161kV off-site power line and associated equipment does not adversely affect the consequences or probability of an accident or event previously evaluated. This change clarifies the operability requirements of the remaining power sources during times when the House Service Transformers are out-of-service, requires reporting of actions to restore the transformer(s) and other precautions to be taken while the transformer is out-of-service, and removes the permissive to restart with the 161kV line out-of-service. The present Specifications allow the 161kV line, and therefore the transformers, to be out-of-service for an indefinite time period. This change defines a consistent allowed outage time for both the 161kV line and the associated transformers, and requires NRC concurrence to continue to operate beyond the specified time.

Changes to Table 2-10

The proposed changes to Table 2-10 are administrative only. These changes consist of correcting typographical errors and providing clarification which is consistent with an interpretation from the Office of Nuclear Reactor Regulation. Therefore, the changes to Table 2-10 does [sic] not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

Changes to the Minimum Requirements and Modification to the Minimum Requirements

The proposed changes to the minimum requirements and modification to minimum requirements do not create the possibility of a new of [sic] different kind of accident from any previously evaluated. This proposed change would allow the modification to minimum requirements that apply when the reactor is at full power also apply when the reactor is above 300 degrees F, but not critical.

Changes Concerning the Operation of the 161kV Line and Associated Equipment

It has been determined that no new or different type of accident is created because no new or different modes of operation are proposed for the plant. The proposed requirements to verify the operability of the remaining emergency power supply provides a higher level of assurance that alternative power sources are operable. Removal of the permissive to restart the plant when the 161kV line is out-of-service eliminates the possibility of an accident in a higher mode than that existing at the time the 161kV service was lost. There will be no electrical system configuration changes as a result of this change. Plant response to transients will be the same as currently analyzed in the Updated Safety Analysis Report.

Changes to Table 2-10

The proposed changes to Table 2-10 are administrative only. These changes consist of correcting typographical errors and providing

clarification which is consistent with an interpretation from the Office of Nuclear Reactor Regulation. Therefore, the changes to Table 2-10 cannot create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in the margin of safety.

Changes to the Minimum Requirements and Modification to the Minimum Requirements

The proposed changes to the minimum requirements and modification to minimum requirements does [sic] not reduce the margin of safety. This proposed change would allow the modification to minimum requirements that apply when the reactor is at full power to also apply when the reactor is above 300 degrees F, but not critical. Equipment necessary to be operable above 300 degrees F is specified in additional Specifications. This proposed change would not alter the number of pumps or valves which are required to be operable.

Changes Concerning the Operation of the 161kV Line and Associated Equipment

This change results in an increase in the margin of safety associated with the normal source of auxiliary power by eliminating the permissive to restart with the 161kV line out-of-service.

Changes to Table 2-10

The proposed changes to Table 2-10 are administrative only. These changes consist of correcting typographical errors and providing clarification which is consistent with an interpretation from the Office of Nuclear Reactor Regulation. Therefore, the changes to Table 2-10 do not reduce any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, N.W., Washington, D.C. 20036

NRC Project Director: John T. Larkins

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: October 28, 1986, as supplemented by letters dated May 19, 1988, and December 30, 1988.

Description of amendment request: The licensee proposes to revise the Trojan Technical Specification Section 2.2., Table 2.2-1, and associated Bases, and Section 3.3., Table 3.3-4. These changes would delineate new setpoints for the steam generator low-low level reactor trip and auxiliary feedwater pump start signals. The setpoints are more conservative than present Technical Specifications setpoints for these instruments.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed setpoints of the LCA do not increase the probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the safety analysis report.

The purpose of the steam generator low-low water level reactor trip setpoint is to trip the reactor upon a loss of heat sink. The purpose of the pressurizer low pressure safety injection set point is to trip the reactor and actuate the Engineered Safety Features during a LOCA. The steam generator low-low water level setpoint also provides a signal to automatically start the auxiliary feedwater pumps.

This setpoint accommodates steam generator reference leg heatup and other accident-induced environmental errors not accounted for in the originally licensed setpoints or considered in the original and still bounding safety analysis.

Trojan's accident analysis assumes setpoints of 0 percent of span for the steam generator low-low level trip and 1700 psig for the pressurizer low-pressure safety injection. The new Technical Specification limits ensure these assumed values will not be exceeded. The new limits take into consideration instrument uncertainty, circuit loop uncertainty, and the harsh environment induced uncertainty. These new setpoints are less limiting than the interim setpoints; yet provide the margin necessary to ensure Plant protection consistent with the FSAR analyses. In addition, they provide greater flexibility for transient conditions, thereby minimizing the likelihood of inadvertent protective action and challenges to the Plant safety systems.

To ensure that the setpoints assumed in the safety analysis are not exceeded, a Channel Statistical Allowance (CSA) is determined for the actual setpoint. The major contributor to the CSA is the environmental allowance. The environmental allowance, in addition to the vendor defect notifications referenced previously in this LCA, prompted PGE to establish conservative interim setpoints until transmitter replacement could be accomplished.

During the 1986 outage, the transmitters were replaced with functionally equivalent components supplied by the vendor that are less susceptible to adverse environmental conditions. The transmitter vendor provided a Plant-specific environmental allowance value of 5.59 percent of span based on the Trojan LOCA Containment temperature profile. The setpoints were then changed to the current values to reflect this improvement during the 1986 refueling outage. Subsequently, in 1987 it was determined that the error contribution due to harsh environment cable current leakage was more significant than had been indicated by the original Trojan-specific setpoint methodology. The reactor protection setpoints were recalculated to include this current leakage contribution to the environmental allowance portion of the CSA. This resulted in a 7 psig increase in the pressurizer low-pressure safety injection setpoint and no change in the steam generator low-low level reactor trip setpoint. . . .

In conclusion, the new setpoint value has been increased over those originally licensed, to incorporate the environmental allowance and provide assurance of reactor protection system actuation prior to exceeding the limits established in the safety analyses. The original safety analysis was bounding for the interim setpoints and is still bounding for the new setpoints. Thus, there is not [sic] increase in probability or consequences of a previously evaluated accident.

2. This proposed LCA does not create the possibility for an accident or malfunction of a different type than any evaluated previously in the safety analysis report.

The only change to the Plant or its operation is in the setpoints themselves. The transmitter changeout did not involve any changes to the Plant protection system or associated circuitry. The original transmitters were replaced with functionally equivalent components with less susceptibility to environmental conditions. The adjustment of the setpoint to more restrictive limits to incorporate the environmental allowance, and the harsh environment cable current leakage error, does not create the possibility of a new or different kind of malfunction or accident.

3. This proposed LCA does not result in a reduction in any margin of safety as defined in the basis for any Technical Specification.

The originally licensed setpoints did not make allowance for adverse environment induced inaccuracies. In addition, the new setpoints provide for improved operating margin and Plant availability over those used in the interim. The interim setpoints were set conservatively high to provide protective margins and ensure that the original safety analysis would continue to be bounding until the transmitters could be replaced with the improved models. The consequences of continued operation with the overly conservative interim setpoints would be an increase in the probability of inadvertent actuation of the protective functions due to a reduction in operating margin. This is especially true for steam generator water-level control during startup and shutdown. Inadvertent reactor trips reduce Plant availability and provide unnecessary challenges to Plant protection systems.

The new setpoints improve the margin of safety by incorporating the effect of environmental, including harsh environment cable current leakage errors, on the process signals. The setpoints were increased from those originally licensed and used in the accident analysis, and operating margin is

improved over that provided by the interim setpoints. The original safety analysis is still bounding; therefore, this proposed LCA does not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207

Attorney for licensees: Leonard A. Girard, Esq., Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204

NRR Project Director: Theodore R. Quay

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: February 16, 1990

Description of amendment request: This amendment proposes to revise Trojan Technical Specification (TTS) 4.0.2 by removing the requirement that the combined time interval for any three consecutive surveillance intervals shall not exceed 3.25 times the specified surveillance interval. Additionally, this amendment proposes to modify the associated TTS Bases.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed license change involve a significant increase in the probability or consequences of an accident previously evaluated?

Deletion of the 3.25 extension limitation will not significantly affect equipment reliability and does not affect the probability or consequences of accidents previously evaluated in the FSAR. The surveillance interval will still be constrained by the 25 percent interval extension criteria of TTS 4.0.2. The risk involved with the performance of 18-month surveillances during plant operation is greater than the risk involved with exceeding the 3.25 limit. When plant conditions are not conducive for the safe conduct of surveillances due to safety systems being out of service for maintenance or due to other ongoing surveillance activities, safety if enhanced by the use of the allowance that permits a surveillance interval to be extended.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed revision to the TTS will not result in any physical alteration to any plant system, nor would there be a change in the method by which any safety-related system performs its function.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

Deletion of the requirement that any three consecutive surveillance intervals shall not exceed 3.25 times the interval will not significantly affect equipment reliability, rather it will reduce the potential to interrupt normal plant operations due to surveillance scheduling. This proposed exemption will allow all surveillance intervals to be constrained by the maximum allowable extension of 25 percent of the specified surveillance interval, which may enhance safety when used during plant operation.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207

Attorney for licensees: Leonard A. Girard, Esq., Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204

NRR Project Director: Theodore R. Quay

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: April 9, 1991 and October 3, 1991

Description of amendment request: This amendment proposes to revise Trojan Technical Specification (TTS) 6.5.2.2 to modify the membership requirements of Trojan Nuclear Operation Board (TNOB), Trojan's Safety Review Oversight Group. This revision would allow for substitution of ten years of appropriate technical experience in lieu of an academic degree in engineering or science field and a minimum of five years technical experience.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed license change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change does not affect any existing accident scenario. It merely allows an individual without an academic degree in an engineering or science field to serve on the TNOB provided equivalent experience level requirements are satisfied. Accordingly, the change does not involve a significant increase in the probability or consequence of an accident previously evaluated.

2. Does the proposed license change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not cause a physical alteration to any Plant system or change the method by which safety-related systems perform their function. It therefore cannot create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does not proposed license change involve a significant reduction in a margin of safety?

The change does not involve a significant reduction in a margin of safety since the proposed change is limited to the administrative controls for TNOB membership.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207

Attorney for licensees: Leonard A. Girard, Esq., Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204

NRR Project Director: Theodore R. Quay

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: September 19, 1991

Description of amendment request: This amendment proposes to revise Trojan Technical Specification (TTS) 3.3.3.6 to allow control room outside air dampers to be opened periodically when chlorine detectors are inoperable, provided appropriate compensatory measures are taken. These compensatory measures are added to the Bases of TTS 3/4.3.3.6 and referenced in the Bases of TTS 3/4.7.6.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed license change involve a significant increase in the probability or consequences of an accident previously evaluated?

The probability of accident creation has not significantly increased since the Chlorine Detection System itself has no potential for creating a toxic gas accident. The proposed change affects accident mitigation once it has occurred and not accident initiation.

Accident consequences could be increased by the proposed change if a chlorine accident went undetected while ventilating the CR. During periods when the site is most vulnerable to a chlorine accident (i.e., passage of trains on the western side of the Plant with possible chlorine gas aboard), the compensatory actions do not permit ventilation with an inoperable chlorine detector. An additional compensatory action includes suspending on-site activities which could generate chlorine gas. These compensatory actions will ensure that chlorine releases will be promptly detected and reported to the CR, thus limiting accident consequences.

Furthermore, the chances of a chlorine accident occurring during the limited period during which ventilation is permitted, is remote (i.e. One hour out of an eight-hour shift when in TTS 3.3.3.6 action statement). The proposed change will benefit the health and safety of CR personnel by allowing periodic ventilation to relieve the CR of carbon dioxide and contribute to enhanced Plant operation.

Because the proposed change provides adequate compensatory actions, there is no increase in the consequences of an accident previously evaluated.

2. Does the proposed license change create the possibility of a new or different kind of accident from any accident previously evaluated?

Since the purpose of the detectors is to mitigate the consequences of a chlorine accident, ventilating the CR when the chlorine detectors are inoperable will not introduce a new or different type of accident from any previously evaluated. Potential failure to mitigate the consequences of an accident due to an inoperable detector are offset by compensatory actions discussed previously.

3. Does the proposed license change involve a significant reduction in a margin of safety?

Because compensatory measures offset the added risk of ventilating the CR with inoperable detectors, there is no significant reduction in a margin of safety. Operator's performance should be enhanced and hence improvements to margin of safety is possible with the proposed change, since the proposed ventilation will relieve the CR of carbon dioxide buildup.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207

Attorney for licensees: Leonard A. Girard, Esq., Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204

NRR Project Director: Theodore R. Quay

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: October 28, 1991

Description of amendment request: The licensee requests an amendment to the Technical Specifications to revise Section 3.1.A (Operational Components), Section 3.1.B (Heatup and Cooldown), Section 3.3 (Engineered Safety Features), and Section 4.3 (Reactor Coolant System Integrity Testing). These sections would be revised to extend the Heatup-Cooldown limits to 11.0 effective full power years (EFPYs) and to provide for the corresponding Overpressure Protection System (OPS) limits. The requested amendment also corrects typographical errors and provides pagination and format changes to enhance the quality of these sections.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Consistent with the requirements of 10 CFR 50.92, the enclosed application involves no significant hazards based on the following information:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response:

Neither the probability nor the consequences of a previously analyzed accident is increased due to the proposed changes. The adjusted reference temperature of the limiting beltline material was used to correct the pressure-temperature curves to account for irradiation effects. Thus, the operating limits are adjusted to incorporate the initial fracture toughness conservatism present when the reactor vessel was new. The adjusted reference temperature calculations were performed utilizing the guidance contained in RG 1.99, Revision 2. The updated curves provide assurance that brittle fracture of the reactor vessel is prevented. The changes to the OPS limits are conservative and make them consistent with the revised heatup and cooldown curves.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response:

The updated pressure-temperature (P-T) and OPS limits will not create the possibility of a new or different kind of accident. The revised operating limits merely update the existing limits by taking into account the effects of radiation embrittlement, utilizing criteria defined in RG 1.99, Revision 2 and extending the effective period to 11 EFPYs. The updated P-T curves and OPS limits are conservatively adjusted to account for the effect of irradiation of the limiting reactor vessel material.

No change is being made to the way the P-T or the OPS limits provide plant protection. No new modes of operation are involved. Incorporating this amendment does not necessitate physical alteration of the plant.

(3) Does the proposed amendment involve significant reduction in a margin of safety?

Response:

The proposed amendment does not involve a significant reduction in the margin of safety. The P-T and OPS operation limits are designed to provide a margin of safety. The required margin is specified in ASME Boiler and Pressure Vessel Code, Section III, Appendix G and 10 CFR [Part] 50 Appendix G. The revised curves are based on the latest NRC guidelines along with actual neutron flux/fluence data for the reactor vessel. The new limits retain a margin of safety equivalent to the original margin when the vessel was new and the fracture toughness was slightly greater. The new operating limits account for irradiation embrittlement effects, thereby maintaining a conservative margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: April 24, 1991

Description of amendment request: This amendment proposes to revise the surveillance requirements for Trojan

Technical Specification (TTS) 4.6.1.5, "Containment Systems Air Temperature". This revision allows the use of any five of the eight Resistance Temperature Detector element locations in determining the average Containment temperature.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident?

The proposed changes provide an equivalent means for verifying Containment air temperatures. The verification ensures that the average Containment air temperature does not exceed the initial temperature condition assumed in the Loss of Coolant Accident (LOCA) analysis nor the maximum allowable continuous duty temperature for equipment and instrumentation located within Containment. Temperature readings recorded during full-power operation between September 1 and December 31, 1989 were analyzed. A comparison was then made between readings taken by inboard RDT elements versus outboard RTD elements for the same CAC. . . . This [comparison] shows that the temperature difference for the CAC No. VC-204 location is significantly larger than the differences shown for the other locations. The cause of this abnormality is that RTD Element No. 13 is reading 5° F too low. That determination was made from computing the performance of CAC No. VC-204A using the cold air RTD Element No. 14 and the RTD Element No. 13. . . . Further evidence that RTD Element No. 13 is not functioning properly is . . . the average deviation of individual RTDs from the average inboard or outboard reading. Until RTD Element No. 13 is replaced, administrative controls will be established not to use this element in determining the Containment average air temperature.

With the data from CAC No. VC-204 removed . . . excellent agreement is shown between the inboard and outboard temperature readings.

Since the Containment temperature limits remain the same and the equivalency of temperature readings between the inboard and outboard RTDs have been established via review of actual temperature data, there will not be any increase in either the probability or consequences of an accident due to the proposed change.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any previously evaluated?

As discussed above, the proposed changes provide a technically equivalent means for verifying Containment air temperature. Consequently, a new or different type of accident will not be created.

3. Does the proposed license amendment involve a significant reduction in a margin of safety?

Because the proposed changes meet the intent of the bases of the TTS, a margin of safety will not be reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207

Attorney for licensees: Leonard A. Girard, Esq., Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204

NRR Project Director: Theodore R. Quay

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment request: July 19, 1991 as supplemented by October 24, 1991. (TS-293)

Description of amendment request: The proposed amendment would revise the Pressure/Temperature Limits of Section 3.6 of the Technical Specifications in accordance with the guidance of Generic Letter (GL) 88-11, "NRC Position on Radiation Embrittlement of Reactor Vessel Materials and its Impact on Plant Operations."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequence of an accident previously evaluated.

The proposed amendment would revise the TS to conform to current NRC guidance for protection of the reactor pressure vessel from radiation induced embrittlement. The proposed TS changes result in more conservative operating limits for the reactor vessel. The new operating limits will provide increased margins of protection for the reactor vessel from non-ductile failure.

Failure of the reactor vessel is not a design basis accident. Through design conservatisms, reactor vessel failure has a low probability of occurrence and is not considered in the safety analyses. The new proposed P-T operating limits will add additional conservatism making reactor vessel failure even less credible. These changes do not alter or prevent the operation of equipment required to mitigate any accident in which BFN is analyzed for in the BFN Final Safety Analysis Report. Therefore, this change cannot increase the probability or consequences of any previously evaluated accident.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed TS changes deal exclusively with reactor vessel P-T limitations. No other component or plant system is affected. The new P-T limit curves will be adjusted for reactor vessel fluence in a more conservative manner than the existing curves. Therefore, there is no possibility of a new or different kind of accident being created from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The ductile to brittle transition temperature is shifted approximately 15° F over the current P-T curves. This shift of the P-T curves to higher temperatures represents an increased margin against non-ductile fracture during heatup, cooldown and hydrotesting. The proposed changes conform to the recommendations of the NRC Staff contained in Regulatory Guide 1.99, Revision 2. Therefore, the proposed changes will not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902

NRC Project Director: Frederick J. Hebdon

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: November 1, 1991

Description of amendment request: The proposed amendment would remove the Fire Protection Program Requirements from the Technical Specifications (TS), add administrative controls for the Fire Protection Program to the TS, and modify Operating License Condition 2.C.(4) consistent with Generic Letter (GL) 86-10, "Implementation of Fire Protection Requirements" and GL 88-12, "Removal of Fire Protection Requirements from Technical Specifications."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

Toledo Edison has reviewed the proposed changes and determined that a significant hazards consideration does not exist because operation of the Davis-Besse Nuclear Power Station, Unit Number 1, in accordance with these changes would:

1a. Not involve a significant increase in the probability of an accident previously evaluated because although the changes remove the Fire Protection requirements from the TS, the requirements were incorporated into the USAR which is controlled under the 10 CFR 50.59 process. The changes made through the incorporation of the TS into the FHAR did not reduce the Fire Protection Program requirements of the DBNPS. Operating limitations will continue to be imposed, and required surveillances will continue to be performed in accordance with the approved written procedures. As such, fire protection systems are not affected and therefore, no accident scenarios are impacted by the proposed changes.

Including a specific reference in the TS for . . . review of the Fire Protection Program and revisions thereto will not involve a significant increase in the probability of an accident previously evaluated because this is an administrative change with no accident implications.

Toledo Edison's review of the License Amendment Number 18 SER requirements concluded that those requirements are either met, met with a commitment, or met with alternative approaches. The proposed change to License Condition 2.C.(4), which would replace the present license condition with a standard license condition consistent with that proposed in Generic Letter 86-10, would not involve a significant increase in the probability of an accident previously evaluated because the change does not reduce the existing Fire Protection Program nor does it result in a degradation of control to the Fire Protection Program process. Future changes to the Fire Protection Program will be processed under the existing provisions of 10 CFR 50.59.

1b. Not involve a significant increase in the consequences of an accident previously evaluated because although the changes remove the Fire Protection requirements from the TS, the requirements were incorporated into the USAR which is controlled under the 10 CFR 50.59 process. The changes made through the incorporation of the TS into the FHAR did not reduce the Fire Protection Program requirements of the DBNPS. Operating limitations will continue to be imposed, and required surveillances will continue to be performed in accordance with approved written procedures. As such, the proposed changes have no radiological impact and therefore, no accident consequences are impact.

Including a specific reference in the TS for . . . review of the Fire Protection Program and revisions thereto will not involve a significant increase in the consequences of an accident previously evaluated because this is an administrative change with no accident implications.

Toledo Edison's review of the License Amendment Number 18 SER requirements concluded that those requirements are either met, met with a commitment, or met with alternative approaches. The proposed change to License Condition 2.C.(4), which would replace the present license condition with a standard license condition consistent with that proposed in Generic Letter 86-10, would not involve a significant increase in the consequences of an accident previously evaluated because the change does not reduce the existing Fire Protection Program nor does it result in a degradation of control to the Fire Protection Program will be processed under the existing provisions of 10 CFR 50.59.

2a. Not create the possibility of a new kind of accident from any accident previously evaluated because the Fire Protection requirements were incorporated into the USAR. The changes made through the incorporation of the TS into the FHAR did not reduce the Fire Protection Program requirements of the DBNPS. No changes are being made to the existing ability of DBNPS to achieve and maintain safe shutdown in the event of a fire. This is an administrative action to relocate the Fire Protection Program requirements from the TS to the USAR by reference to the FHAR. Thus, no new accident scenarios have been created.

Including a specific reference in the TS for . . . review of the Fire Protection Program and revisions thereto does not create the possibility of a new kind of accident from any previously evaluated because there are no changes to the Fire Protection program requirements as a result of this TS revision. The formal requirement for the . . . to review the Fire Protection Program and its revisions is an administrative action that does not create a new accident scenario.

Toledo Edison's review of the License Amendment Number 18 SER requirements concluded that those requirements are either met, met with a commitment, or met with alternative approaches. The proposed change to License Condition 2.C.(4), which would replace the present license condition with a standard license condition consistent with that proposed in Generic Letter 86-10, would not create a new scenario because the change does not reduce the existing Fire Protection Program nor does it result in a degradation of control of the Fire Protection Program process. Future changes to the Fire Protection Program will be processed under the existing provisions of 10 CFR 50.59.

2b. Not create the possibility of a different kind of accident from any accident previously evaluated because the Fire Protection requirements were incorporated into the USAR. The changes made through the incorporation of the TS into the FHAR did not reduce the Fire Protection Program requirements of the DBNPS. No changes are being made to the existing ability of DBNPS to achieve and maintain safe shutdown in the event of a fire. This is an administrative action to relocate the Fire Protection Program requirements from the TS to the USAR. Thus, fire protection system are not affected and different accident scenarios have not been created.

Including a specific reference in the TS for . . . review of the Fire Protection Program and revisions thereto does not create the possibility of a different kind of accident from any previously evaluated because there are no changes to the Fire Protection Protection Program requirements as a result of this TS revision. The formal requirement for the . . . to review the Fire Protection Program and its revisions is an administrative action that does not create a different accident scenario.

Toledo Edison's review of the License Amendment Number 18 SER requirements concluded that those requirements are either met, met with a commitment, or met with alternative approaches. The proposed change to License Condition 2.C.(4), which would replace the present license condition with a standard license condition consistent with that proposed in Generic Letter 86-10, does not create a different accident scenario because the change does not reduce the existing Fire Protection Program nor does it result in a degradation of control of the Fire Protection Program process. Future changes to the Fire Protection Program will be processed under the existing provisions of 10 CFR 50.59.

3. Not involve a significant reduction in a margin of safety because as noted above, the changes made through the incorporation of the TS into the FHAR did not reduce the Fire Protection Program requirements of the DBNPS.

The requirement for the SRB to review the Fire Protection Program and revisions thereto is an addition to the TS and as such does not involve a significant reduction in the margin of safety.

The replacement of the existing License Condition 2.C.(4) with a standard condition consistent with that proposed in Generic Letter 86-10 does not involve a significant reduction in a margin of safety because, the requirements of the existing License Condition have either been met, met with a specific commitment, or met with acceptable alternative approaches.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037.

NRC Project Director: John N. Hannon

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: November 7, 1991

Description of amendment request: The proposed changes would revise the Technical Specifications (TS) for the North Anna Power Station, Units No. 1 and No. 2 (NA-1&2). The proposed changes are being made as a result of an NRC violation regarding the NA-1&2 service water system. TS changes for the service water system were submitted to the NRC on October 3, 1991, as a result of the violation. However, in the cover letter transmitting the Notice of Violation, dated February 1, 1991, the NRC observed that the operation of the component cooling water system was different than that described in the Updated Final Safety Analysis Report (UFSAR). In addition, no formal safety evaluations were done to address this difference. The proposed TS change requested in the November 7, 1991 letter will ensure that operation of the component cooling water system is consistent with its design basis.

The proposed changes enhance the availability of the component cooling water system by ensuring that sufficient cooling capacity for both units is available for continued operation of various equipment during normal unit cooldown. The proposed changes further ensure the availability of a heat sink for the residual heat removal system to remove decay heat from the reactor core by requiring that two of the four component cooling water subsystems be operable when both units are in modes 5 or 6.

The Limiting Condition for Operation (LCO) would be changed to require three subsystems (shared between both units) to be operable and to define what an operable component cooling water subsystem consists of. Two component cooling water subsystems provide the minimum heat removal capability to accomplish a slow cooldown on one unit while maintaining normal loads on the opposite unit. To ensure the design basis requirement of a fast cooldown on one unit and normal operational loads on the opposite unit is met, three subsystems of component cooling water must be operable. In addition, a footnote would be added to further clarify when a subsystem is considered operable.

A new LCO would be established for modes 5 and 6. This new LCO requires that two of the four component cooling water subsystems be operable. Component cooling water is required to provide a heat sink for the residual heat removal system to remove decay heat from the reactor core. However, there is a significant reduction in potential heat loading on component cooling water with the reduced operational requirements of the other systems that are cooled by component cooling water. The major reduction in heat loads is due to the fact that by the time mode 5 is reached, reactor decay heat has already dropped off significantly and that reactor coolant pumps and control rod drive mechanisms are not required to be operating in modes 5 and 6. Therefore, only two component cooling water subsystems are required to be operable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes have no adverse impact upon potential accident probability or consequence. The proposed changes enhance the availability of the component cooling water system and ensure that sufficient cooling capacity is available for continued operation of various equipment during normal unit cooldown [and] is available for both units. The proposed changes further ensure the availability of a heat sink for the residual heat removal system to remove decay heat from the reactor core by requiring that two of the four component cooling water subsystems be OPERABLE when both units are in Modes 5 and 6. No new or unique accident precursors are introduced by these changes to the [TS] requirements. In fact, the clarification of the [TS] to accurately portray the current design basis for the component cooling water system will decrease any potential accident probability or consequence that may occur as a result of inaccurate or incomplete information that may be currently in the [TS]. [Also], the consequences of the accidents will not increase as a result of the proposed [TS] changes. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) The proposed changes to the [TS] [constitute] additional limitations not presently included in the [TS,] thereby making [the NA-1&2 TS] more stringent. The proposed changes enhance the availability of the component cooling water system and ensure that sufficient cooling capacity is available for continued operation of various equipment during normal unit cooldown [and] is available for both units. The proposed changes further ensure the availability of a heat sink for the residual heat removal system to remove decay heat from the reactor core by requiring that two of the four component cooling water subsystems be OPERABLE when both units are in Modes 5 or 6. Operation with these changes does not [increase the] probability for any accident which has not already been evaluated in the [UFSAR]. [The] changes.... modify the TS to be consistent with the UFSAR design basis. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The results of the UFSAR accident analyses continue to bound operation under the proposed changes. The proposed changes enhance the availability of the component cooling water system and ensure that sufficient cooling capacity is available for continued operation of various equipment during normal unit cooldown [and] is available for both units. The proposed changes further ensure the availability of a heat sink for the residual heat removal system to remove decay heat from the reactor core by requiring that two of the four component cooling water subsystems be OPERABLE when both units are in Modes 5 and 6. The proposed changes to the [TS] ensure consistency with the UFSAR design basis and result in additional limitations not currently included in the [TS]. Therefore, the proposed changes do not involve a reduction in the margin to safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Herbert N. Berkow

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: November 7, 1991

Description of amendment request: The proposed changes would revise the Technical Specifications (TS) for the North Anna Power Station, Units No. 1 and No. 2. The proposed changes are being made as a result of the replacement of several piezometers with open tube devices that use a conductivity cell. Currently, TS 3/4.7.13, "Groundwater Level - Service Water Reservoir," requires monitoring various pneumatic piezometers around the service water reservoir as listed in TS Table 3.7-6. The purpose of TS 3/4.7.13 is to identify either an abnormally high groundwater level that might signify increased seepage of leakage rates from the reservoir which could diminish the supply of cooling water, or a decrease in efficiency of either of the two drainage systems installed to remove accumulated subterranean groundwater. The proposed changes would delete several piezometers which have been replaced by the open tube devices and add the replacement devices. The surveillance requirements would also be

modified to clarify that at least one operable piezometer or open tube device in each zone listed in the specification (pump house, valve house, and southeast side of reservoir) must be monitored. In addition, the action statement will address the action to be taken if surveillance requirement 4.7.13.1 cannot be met. Action statement 3.7.13.c will also be added to specify that the provisions of 3.0.4 are not applicable. Finally, two administrative changes would be made to TS 3/4.13. TS 4.7.13.1 would be divided into two parts, 4.7.13.1 for groundwater level determination, and 4.7.13.2 to measure the outflow of groundwater from drainage galleries. The phrase "(shared by Units 1 and 2)" would be added to TS 3.7.13 for consistency.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. Sufficient means for detecting high water levels within the dike will still be required by the [TS]. Also, the changes require that at least one piezometer or open tube device must be operable in each of the three main zones of the dike.

2. Operation with these changes does not create the possibility of new or different kind of accident from any accident previously evaluated. The proposed changes do not involve any changes to plant design and a sufficient means for detecting high water levels within the dike will still be required by the [TS]. Also, the changes require that at least one piezometer or open tube device must be operable in each of the three main zones of the dike.

3. The proposed changes do not involve a significant reduction in the margin of safety. The changes [specify] that some of the piezometers have become inoperable over time and have been replaced by open tube devices. The proposed changes also specify that measurements from each of the three main zones of the dike are below allowable elevations. Therefore, the proposed changes do not involve a reduction in the margin of safety.

In addition, the two administrative changes to TS 3/4.13 enhance the clarity and consistency of the NA-1&2 TS. Therefore, these changes do not involve a significant increase in the probability or consequences of an accident previously evaluated, do not create the possibility of a new or different kind of accident from any accident previously evaluated, and do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Herbert N. Berkow

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: November 7, 1991

Description of amendment request: The proposed changes would revise Section 6 of the Technical Specifications (TS) for the North Anna Power Station, Units No. 1 and No. 2 (NA-1&2). The proposed changes would remove language describing, or committing to, any previous operator training programs since the training programs at NA-1&2 have been accredited and certified in accordance with Regulatory Guide 1.8, Revision 2, "Qualification and Training of Personnel for Nuclear Power Plants." The proposed changes would also delete reference to the March 28, 1980 NRC letter and substitute Virginia Electric and Power Company accredited training programs (including Shift Supervisor, Assistant Shift Supervisor, Control Room Operator-Nuclear, and Shift Technical Advisor) for the previous training requirements. In addition, the proposed changes redefine the responsibilities of the Manager-Nuclear Training to encompass the responsibilities for ensuring retraining and replacement programs that have achieved accreditation and the responsibility for maintaining accreditation. The proposed TS changes have been determined to administrative in nature.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes have no adverse impact upon potential accident probability or consequence. The proposed changes allow for substitution of regulatory requirements for training programs which have been accredited and certified. [The NA-1&2] training programs are accredited and certified as permitted by the regulation. Likewise, the consequences of the accidents will not increase as a result of the proposed [NA-1&2 TS] changes. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes allow for substitution of regulatory requirements for training programs which have been accredited and certified. [The NA-1&2] training programs are accredited and certified as permitted by the regulation.... Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes allow for substitution of regulatory requirements for training programs which have been accredited and certified. [The NA-1&2] training programs are accredited and certified as permitted by the regulation. Therefore, the proposed changes do not involve a reduction in the margin to safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Herbert N. Berkow

Notice of Issuance of Amendment To Facility Operating License

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or

petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Alabama Power Company, Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama.

Date of amendments request: May 6, 1991, as supplemented June 18, June 20, September 27, October 14, and October 22, 1991.

Brief Description of amendments: The amendments revise the Operating Licenses to reflect the change from Alabama Power Company to Southern Nuclear Operating Company, Inc. (Southern Nuclear), as the licensed operator.

Date of issuance: November 22, 1991.

Effective date: November 22, 1991.

Amendment Nos.: 90 and 83

Facility Operating License Nos. NPF-2 and NPF-8. The amendments revise the Operating Licenses, Technical Specifications (Appendix A), and Environmental Protection Plan (Appendix B).

Date of initial notice in **Federal Register:** September 19, 1991 (56 FR 47500)

The submittals dated June 18, June 20, September 27, October 14, and October 22, 1991, concerned (1) FNP compliance with 10 CFR 73.56 regulations concerning unrestricted access authorization; (2) the naming of Joseph M. Farley as Chairman of the Board and Chief Executive Officer, and R. P. McDonald as President of Southern Nuclear; (3) a request that the amended license conditions be made effective within 90 days of the date of issuance and upon the official assumption of responsibilities by Southern Nuclear; (4) clarifying substitutions of "Southern Nuclear" for "the licensee" in the proposed amended licenses; and (5) deletion of unnecessary information requested in the proposed amended licenses. These supplemental submittals did not substantially alter the action noticed or change the NRC staff's proposed initial determination of no significant hazards consideration as published in the **Federal Register.** The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 22, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, P. O. Box 1369, Dothan, Alabama 36302

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: August 27, 1991

Brief description of amendments: The amendments revise the Technical Specifications (TS) for both Units 1 and 2 to increase the specified snubber functional testing and service life monitoring surveillance intervals to accommodate the 24-month fuel cycles currently in use at Calvert Cliffs. This requested change is based on a history of low snubber failure rates and an effective snubber maintenance program. As requested in Generic Letter (GL) 91-04, "Changes In Technical Specification Surveillance Intervals To Accommodate a 24-month Fuel Cycle," the licensee provided an evaluation in support of the change which concludes that the effect on safety is small and does not invalidate any assumption in the plant licensing basis. Additionally, the TS Bases, including TS Basis 4.0.2, are updated to reflect the guidance provided in the recently issued GL 91-04 and support the requested changes.

Date of issuance: November 18, 1991

Effective date: November 18, 1991

Amendment Nos.: 165 and 145

Facility Operating License Nos. DPR-53 and DPR-69: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 18, 1991 (56 FR 47229) The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated November 18, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois Docket Nos. STN 50-456 and STN 50-457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: June 28, 1991, as supplemented August 27, 1991

Brief description of amendments: The proposed amendment was submitted as a result of NRC recommendations pertaining to Generic Letter 90-06 for Generic Issue 70, "Power-Operated Relief Valve [PORV] and Block Valve Reliability," and Generic Issue 94, "Additional Low-Temperature Overpressure Protection (LTOP) for Light-Water Reactors." The proposed Technical Specifications (TS) will enhance the reliability of PORVs and block valves and will provide additional LTOP. The corresponding surveillance requirements and the Bases sections are also modified to reflect the TS changes.

Date of issuance: November 18, 1991

Effective date: November 18, 1991

Amendment Nos.: 44, 44, 33, and 33

Facility Operating License Nos. NPF-37, NPF-66, NPF-72 and NPF-77: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 4, 1991 (56 FR 43804) The August 27, 1991, submittal provided clarifying information that did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 18, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: For Byron, the Byron Public Library, 109 N. Franklin, P. O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments September 24, 1991

Brief description of amendments: Revision of Technical Specification 4.8.H.2.b(2) which defines a differential temperature criteria for the control room emergency filtration system heater. The revision establishes a differential temperature requirement based on flow.

Date of issuance: November 18, 1991

Effective date: November 18, 1991

Amendment Nos.: 133 and 128

Facility Operating License Nos. DPR-29 and DPR-30. The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: October 16, 1991 (56 FR 51937) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 18, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: January 30, 1991

Brief description of amendments: The amendments revise TS 6.8.2 to allow the Manager of Production Environmental Services or a designated Technical System Manager in the Production Support Department to review and approve Applied Science Center procedures which implement offsite environmental, technical, and laboratory activities.

Date of issuance: November 18, 1991

Effective date: November 18, 1991

Amendment Nos.: 92 and 88

Facility Operating License Nos. NPF-35 and NPF-52: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: October 16, 1991 (56 FR 51923) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 18, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: June 26, 1991, as supplemented September 16, 1991, and November 7, 1991

Brief description of amendments: The amendments revise the Technical Specifications to reflect the reloading of McGuire Unit Cycle 8 with B&W fuel.

Date of issuance: November 27, 1991

Effective date: November 27, 1991

Amendment Nos.: 128 and 110

Facility Operating License Nos. NPF-9 and NPF-17: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: September 18, 1991 (56 FR 47233) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 27, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Entergy Operations, Inc., Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: September 20, 1990, as supplemented by letters dated February 28, and August 14, 1991.

Brief description of amendment: The amendment revised the reactor coolant system Technical Specification pressure/temperature operating limits for the first 15 effective full power years, using the methodology of Regulatory Guide 1.99, Revision 2. The amendment also revised the low-temperature overpressure protection enable temperature.

Date of issuance: November 14, 1991

Effective date: 30 days from the date of issuance

Amendment No.: 154

Facility Operating License No. DPR-51. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: January 9, 1991 (56 FR 890) The additional information contained in the supplemental letters dated February 28, and August 14, 1991, was clarifying in nature and, thus, within the scope of the initial notice and did not affect the staff's proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 14, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: March 26, 1991

Brief description of amendments: The amendments delete requirements relating to the Boron Injection Tank.

Date of issuance: November 20, 1991

Effective date: November 20, 1991

Amendments Nos.: 158 & 142

Facility Operating Licenses Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: September 18, 1991 (55 FR 47239) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 20, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: September 10, 1990

Brief description of amendments: The amendments modify Technical Specification 4.7.5.1.a to reduce the allowable control room temperature from 120° F to 95° F.

Date of issuance: November 20, 1991

Effective date: November 20, 1991

Amendments Nos.: 159 & 143

Facility Operating Licenses Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: November 14, 1990 (55 FR 47571). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 20, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of application for amendment: November 5, 1990, as supplemented on April 22 and July 8, 1991

Brief description of amendment: This amendment removes cycle-specific operating limits from the Technical

Specifications. These cycle-specific operating limits become the subject of the Core Operating Limits Report. This amendment is in response to NRC Generic Letter 88-16, "Removal of Cycle-Specific Parameter Limits from Technical Specifications," dated October 5, 1988.

Date of issuance: November 18, 1991
Effective date: November 18, 1991
Amendment No.: 124
Facility Operating License No. DPR-36: Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** October 2, 1991 (56 FR 49923) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 18, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, Maine 04578.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: July 19, 1991

Brief description of amendment: The amendment changed the Technical Specifications to revise the appearance of Figure 2.1.1, Reactor Water Level Indication Correlation. In addition, changes were made to Paragraph 4.7.C of the Bases and to Paragraph 6.1.6, ADMINISTRATIVE CONTROLS/ ORGANIZATION Responsibility.

Date of issuance: November 22, 1991
Effective date: November 22, 1991
Amendment No.: 150
Facility Operating License No. DPR-46. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** September 18, 1991 (56 FR 47239) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 22, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: October 10, 1991

Brief description of amendment: This amendment separates the surveillance requirements associated with the buried fuel oil transfer piping's cathodic protection system from those used to determine diesel generator operability.

Date of issuance: November 19, 1991
Effective date: As of the date of issuance and shall be implemented within 60 days of the date of issuance.
Amendment No. 45
Facility Operating License No. NPF-57. This amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** October 17, 1991 (56 FR 52078) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 19, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Public Service Company of New Hampshire, Docket No. 50-443, Seabrook Station, Rockingham County, New Hampshire

Date of application for amendment: April 12, 1991 as supplemented on July 12, 1991

Brief description of amendment: To change the Technical Specifications for the Seabrook Station to redefine the fully withdrawn position of all Rod Cluster Control Assembly (RCCA) banks to minimize localized RCCA wear. The July 12, 1991 letter did not substantially change the intent of the April 12, 1991 submittal.

Date of issuance: November 18, 1991
Effective date: November 18, 1991
Amendment No.: 8
Facility Operating License No. NPF-86: Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** October 16, 1991 (56 FR 51928) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 18, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: June 29, 1990, as supplemented on June 20, 1991.

Brief description of amendment: The proposed amendment would revise Technical Specifications, Action Statements, Surveillance Requirements, and Basis Sections for the operability and testing requirements of the Ginna plant auxiliary electrical systems. The proposed amendment is a result of a station modification which incorporates additional availability of offsite electrical power from a second transmission source for the operation of plant auxiliaries. The supplemental information submitted on June 20, 1991 clarified information in the application. The information did not change the scope of the amendment request or the proposed determination of no significant hazards consideration.

Date of issuance: November 19, 1991
Effective date: November 19, 1991
Amendment No.: 47
Facility Operating License No. DRP-18: Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** October 17, 1990 (55 FR 42100) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 19, 1991.

No Significant hazards consideration comments received: No

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2, and 3, Limestone County, Alabama

Date of application for amendment: July 12, 1991 (TS-295/298)

Brief description of amendment: The Definitions Section 1.0.P of the Technical Specifications (TS) for Secondary Containment Integrity was revised to better define Browns Ferry's zonal configuration of secondary containment. Furthermore, the limiting conditions of operations (LCO) requirements for secondary containment (TS 3.7.C.) was revised, for unit 3 only, to permit isolating the unit 3 reactor zone from the overall secondary containment environment.

Date of issuance: November 18, 1991
Effective date: November 18, 1991
Amendment No.: Unit 1 - 187; Unit 2 - 200; Unit 3 - 159
Facility Operating License Nos. DPR-33, DPR-52 and DPR-68: Amendments revise the technical specifications.
Date of initial notice in **Federal Register:** October 2, 1991 (56 FR 49926) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 18, 1991.

No significant hazards consideration comments received: None

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Tennessee Valley Authority, Docket No. 50-260, Browns Ferry Nuclear Plant, Unit 2, Limestone County, Alabama

Date of application for amendment: July 11, 1991

Brief description of amendment: The license amendment revised Tables 3.2.B and 3.11.A of the Browns Ferry Nuclear Plant, Unit 2 Technical Specifications to correct numerous editorial errors.

Date of issuance: November 25, 1991

Effective date: November 25, 1991

Amendment No.: 201

Facility Operating License No. DPR-52: Amendment revises the technical specifications.

Date of initial notice in **Federal Register:** August 21, 1991 (56 FR 41586) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 25, 1991.

No significant hazards consideration comments received: None

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: August 11, 1989

Brief description of amendments: The amendments incorporate changes in the NA-1&2 TS which govern control rod insertion limits. The changes allow greater operational flexibility with respect to cluster rod bank positioning as a means of minimizing localized rod control cluster assembly wear.

Date of issuance: November 22, 1991

Effective date: November 22, 1991

Amendment Nos.: 149 & 133

Facility Operating License Nos. NPF-4 and NPF-7. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 6, 1989 (54 FR 37055) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 22, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: August 29, 1991

Brief description of amendments: The amendments revise the station blackout, loss of voltage and undervoltage trip setpoints and allowable values located in TS 3.3.2, Table 3.3-4, Engineered Safety Feature Actuation System Instrumentation Trip Setpoints.

Date of issuance: November 29, 1991

Effective date: November 29, 1991

Amendment Nos.: 150 and 134

Facility Operating License Nos. NPF-4 and NPF-7. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 18, 1991 (56 FR 47245) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 29, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of application for amendment: December 12, 1988 (G02-88-264)

Brief description of amendment: The amendment modifies the Radioactive Gaseous Effluent Monitoring Instrumentation Table 3.3.7.12-1 of the technical specifications to allow operation of the main condenser off-gas treatment system without the associated action statement when one of the two redundant hydrogen monitors is inoperable.

Date of issuance: September 18, 1991

Effective date: September 18, 1991

Amendment No.: 95

Facility Operating License No. NPF-21: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 21, 1990 The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 18, 1991.

No significant hazards consideration comments requested: No.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Notice of Issuance of Amendment To Facility Operating License And Final Determination of No Significant Hazards Consideration And Opportunity For Hearing (Exigent or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By January 10, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (Project Director): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the

Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50-278, Peach Bottom Atomic Power Station, Unit No. 3, York County, Pennsylvania

Date of Application for amendment: November 21, 1991

Brief description of amendment: The amendment changed the Technical Specifications to provide for a limited period, the loading of fuel into the reactor core without having all control rods fully inserted provided that certain compensatory actions are performed.

Date of Issuance: November 29, 1991

Effective Date: November 29, 1991

Amendment No.: 168

Facility Operating License Nos. DPR-44 and DPR-56: Amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: No. On November 25, 1991, the staff granted a Temporary Waiver of Compliance which was immediately effective and remained in effect until the proposed amendment was issued.

The Commission's related evaluation of the amendments, consultation with the State of Pennsylvania and final no significant hazards considerations determination are contained in a Safety Evaluation dated November 29, 1991.

Attorney for Licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

Local Public Document Room Location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

NRC Project Director: Charles L. Miller

Dated at Rockville, Maryland, this 4th day of December 1991.

For the Nuclear Regulatory Commission

Bruce A. Boger,

Director, Division of Reactor Projects - III/IV/V Office of Nuclear Reactor Regulation

[Doc. 91-29471 Filed 12-10-91; 8:45 am]

BILLING CODE 7590-01-D

[Docket No. 030-02526; License No. 29-10191-02 EA 91-168]

St. Joseph's Hospital and Medical Center, Paterson, New Jersey; Order Modifying License and Demand for Information

I

St. Joseph Hospital and Medical Center (Licensee) is the holder of NRC Byproduct Material License No. 29-10191-02 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 30. The License authorizes the Licensee to use certain byproduct materials for certain diagnostic and therapeutic medical purposes, including Iridium 192, for use in a Nucletron Corporation Microselectron-High Dose Rate (HDR) remote afterloading brachytheraphy unit for the treatment of humans. The License was issued on January 2, 1970, was renewed on several occasions since that date, and had an expiration date of July 31, 1991. The License remains in effect, pursuant to 10 CFR 30.37(b), since the Licensee has submitted, prior to the expiration date, a timely request to renew the License.

On January 24, 25, and 28, 1991, an NRC inspection was conducted at the Licensee's facility in Paterson, New Jersey to review the Licensee's use of the HDR unit.

During that inspection, the NRC determined that the HDR unit had been moved on three separate occasions from its authorized location in the cobalt room. In the first two instances, which occurred between September 21 and 23, 1990 and between December 28 and 30, 1990, the unit was temporarily moved to the radium storage room but was not used to treat patients at that location. In the third instance, which occurred between December 31, 1990 and January 28, 1991, the unit was moved to the linear accelerator room and was used to treat 18 patients at that location between January 2 and 15, 1991. These three movements of the unit and the use of the unit to treat patients at an unauthorized location were contrary to Condition 16 of the License and to 10 CFR 30.34(c), which require that the unit will be housed and used only in the existing cobalt room and will not be moved from that location, except pursuant to NRC authorization in the form of a license amendment.

On January 23, 1991, the day prior to the initiation of the NRC inspection, NRC Region I staff had two telephone conversations with the Chairman of the Radiation Safety Committee (RSC) (who had also been assigned as the acting Radiation Safety Officer (RSO) in December 1990 when the existing RSO left the facility) concerning possible movement and use of that HDR unit. The RSC Chairman did not, during the first conversation, inform the NRC inspector that the unit had been moved, even though during the second conversation he did admit it after repeated questioning. In addition, during the second conversation, he denied that the unit had been used at the new locations. As a result of the staff's concerns regarding the completeness and accuracy of the information provided during those telephone conversations, an investigation was initiated by the NRC Office of Investigations to review this matter.

III

During the NRC inspection and investigation, several violations of NRC requirements were identified. The violations, which are described in detail in a Notice of Violation and Proposed Imposition of Civil Penalty issued on this date, included, but were not limited to, (1) the movement of the HDR unit from the cobalt room to the radium storage room on two occasions, and the movement of the HDR unit to the linear accelerator room where the HDR unit was used to treat patients on 18 occasions, in careless disregard of NRC requirements; (2) the failure, while the unit was used in the linear accelerator room to treat patients, to have interlocks installed on the door to that new location, thereby creating the possibility that someone could enter the room when the source was exposed without the source retracting to its shielded position; and (3) the deliberate failure by the Chairman of the RSC to provide complete and accurate information to the NRC during two telephone conversations with the NRC on January 23, 1991 relative to the movement and use of the HDR unit.

The Chairman of the RSC, Thomas M. Herskovic, M.D., during a January 23, 1991 telephone conversation with an NRC inspector, inquired regarding the need for a license amendment before moving the HDR unit, but did not inform the inspector that the hospital has already moved and used the HDR unit at the new location. In a signed and sworn statement provided to an OI investigator on March 21, 1991, Dr. Herskovic admitted that he was not straightforward with that inspector by failing to volunteer that information. In addition, in a subsequent telephone conversation on January 23, 1991, with an NRC supervisor and a second NRC inspector, Dr. Herskovic admitted that the HDR unit had been moved, but in

response to a question concerning whether the unit was used on patients after it was moved, stated, "No, the unit was never used on patients at the new location." Dr. Herskovic stated to a third inspector during the January 1991 NRC inspection that the unit had in fact been used on patients after it had been moved. While Dr. Herskovic denied, in his March 21, 1991 statement and at the enforcement conference on October 18, 1991, having said that the unit was "never used on patients at its new location," both the NRC supervisor and inspector affirm that this statement was in fact made.

Dr. Herskovic was the Licensee official responsible for compliance with NRC requirements. This responsibility included decisions as to movement of the HDR unit. Nonetheless, even though he was unsure as to whether the unit could be moved without a license amendment, he failed to carry out his duties and acted with careless disregard for regulatory requirements by directing that the unit be moved without further checking of the requirements and then giving false information to the NRC.

IV

A License to use radioactive material is a privilege that confers upon the Licensee, its officials and its employees, the special trust and confidence of the public. When the NRC issues a License, it is expected and required that the Licensee, as well as its employees, will be accurate and forthright in providing information so that the NRC may ensure that the use of licensed materials does not endanger public health and safety. This includes ensuring that all information provided to the NRC, either orally or in writing, as well as the creation of all records of performance of activities required by the License or NRC regulations, are complete and accurate in all material respects. The NRC relies on the integrity of individuals involved in licensed activities to ensure compliance with the conditions of the License and other regulatory requirements. Dr. Herskovic's willful failure to reveal to the NRC inspector during the first telephone conversation on January 23, 1991, that the HDR unit had been moved and used at a new location, and then providing inaccurate information to the NRC during the second conversation that date by stating that the unit had not been used at the new location and his willfully authorizing movement of the HDR unit without NRC approval, raise serious questions concerning whether Dr. Herskovic will ensure compliance with those requirements while performing licensed activities at the facility. Although the Licensee subsequently replaced Dr. Herskovic as the Radiation Safety Officer, pursuant to a commitment (documented in January 25, 1991, Confirmatory Action Letter) to submit an amendment to the NRC, naming a qualified RSO, Dr. Herskovic is still the Chairman of the RSC at the facility, and is also listed on the License as an authorized user of licensed material. Therefore, I have determined that the public health and safety require that Dr. Herskovic should not be in such critical oversight positions as the Radiation Safty Officer or a member of the RSC.

V

Accordingly, pursuant to sections 81, 161b, 161c, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 (56 FR 40664, (August 15, 1991)] and 10 CFR Part 30, It Is Hereby Ordered that License No. 29–10191–02 is Modified as Follows:

For a period of three years from the date of this Order, Thomas M. Herskovic, M.D. may not be appointed, or act, as the Radiation Safety Officer or serve on the Radiation Safety Committee.

The Regional Administrator, Region I, may relax or rescind, in writing, the above condition upon demonstration by the Licensee of good cause.

VI

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order under oath or affirmation, and may request a hearing on this Order, within 30 days of the date of this Order. The answer may consent to the Order and the person so consenting is not required to include in its answer the matters set forth below. Otherwise, the answer shall in writing, under oath or affirmation, specifically admit or deny each allegation or charge made in the Order, and set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer filed within 30 days of the date of this Order may include a request for a hearing. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406 and to the Licensee if the answer or hearing request is by a person other than the Licensee. If a person other than the Licensee or Dr. Herskovic requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the Licensee, Dr. Herskovic, or any other person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

In the absence of any request for a hearing, the provisions specified in section V above shall be final 30 days from the date of this Order without further order or proceedings.

VII

In addition to the issuance of this Order Modifying License No. 29–10191–02, the Commission requires further information to determine whether it can have reasonable assurance that in the future the Licensee will provide complete and accurate information to the Commission, and otherwise conduct its activities in accordance with the Commission's requirements, while Dr. Herskovic remains as an authorized user of licensed material.

Accordingly, pursuant to sections 161c, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, 10 CFR 2.204 (56 FR 40664, (August 15, 1991)] and 10 CFR 30.32(b), in order for the Commission to determine whether the License should be further modified, suspended or revoked, or other enforcement action taken to ensure compliance with NRC regulatory requirements, the Licensee is required to submit to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within 30 days of the date of this Demand for Information, the following information, in writing and under oath or affirmation:

An explanation as to why Thomas M. Herskovic, M.D., should not be precluded from any involvement in NRC licensed activities under this License for a period of three years, including acting as an authorized user, or under the supervision of an authorized user.

Dr. Herskovic may, also, file a written answer to the Demand for Information

within 30 days of the date of this Demand.

Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address, and to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406.

After reviewing the Licenee's response, the NRC will determine whether further action is necessary to ensure compliance with regulatory requirements.

Dated at Rockville, Maryland this 3rd day of December 1991

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

[FR Doc. 91-29585 Filed 12-10-91; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Docket No. A92-2]

Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued December 4, 1991.

In the Matter of: Vernon, Oklahoma 74877 (Lee Oliver, et al., Petitioners) Before Commissioners: George W. Haley, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher; W.H. "Trey" LeBlanc III; H. Edward Quick, Jr.

Docket Number: A92-2.

Name of Affected Post Office: Vernon, Oklahoma 74877.

Name(s) of petitioner(s): Lee Oliver and others.

Type of Determination: Closing.

Date of Filing of Appeal Papers: November 29, 1991.

Categories of Issues Apparently Raised:

1. Effect on the community [39 U.S.C. 404(b)(2)(A)].

2. Effect on postal services [39 U.S.C. 404(b)(2)(C)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule [39 U.S.C. 404(b)(5)], the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission Orders

(A) The record in this appeal shall be filed on or before December 16, 1991.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

November 29, 1991.	Filing of Petition.
December 4, 1991 ...	Notice and Order of Filing of Appeal.
December 24, 1991.	Last day of filing of petitions to intervene [see 39 CFR 3001.111(b)].
January 3, 1992	Petitioners' Participant Statement or Initial Brief [see 39 CFR 3001.115(a) and (b)].
January 23, 1992	Postal Service Answering Brief [see 39 CFR 3001.115(c)].
February 7, 1992	petitioners' Reply Brief should Petitioners choose to file one [see CFR 3001.115(d)].
February 14, 1992 ...	Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [see 39 CFR 3001.116].
March 28, 1992	Expiration of 120-day decisional schedule [see 39 U.S.C. 404(b)(5)].

[FR Doc. 91-29565 Filed 12-10-91; 8:45 am]

BILLING CODE 7710-FW-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30023; File No. SR-OCC-91-17]

Self-Regulatory Organizations; The Options Clearing Corporation; Filing of Proposed Rule Change Relating to a New Service to Facilitate Risk Analysis

December 3, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 19, 1991, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (SR-OCC-91-17) as described in Items I, II, and III below, which items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

OCC proposes to convert its new service, Risk Management System ("RMS") (C. 1990, 1991 OCC), from pilot to permanent status for its participant exchanges and for its clearing members.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and statutory basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item VI below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, the Statutory Basis for, the Proposed Rule Change

The purpose of this filing is to describe RMS and to delineate (as requested by the staff of the Commission's Division of Market Regulation) the limitations on OCC's liability in offering RMS.

Subsequent to the October 1987 market break, OCC formulated a plan to develop a system based upon its Concentration Monitoring System and its Theoretical Intermarket Margining System for use by its participant exchanges and clearing members in their assessment and management of risk of positions maintained in proprietary, market professional, and customer accounts. OCC has completed development of this system, termed RMS, which evaluates the risk of positions in debt and equity securities, securities options, and futures contracts in light of certain theoretical market movements.

Since May, 1990, RMS has been operational on a pilot basis for at least one participant exchange and approximately six OCC clearing members. These pilot participants have been acting as RMS test sites, and their initial response to RMS has been highly positive. Based upon the comments of pilot participants and OCC's ongoing

reviews of RMS, several enhancements to RMS either have been installed or are currently being installed.[1]

Several of OCC's participant exchanges have mandated that certain of their members, including those that clear the accounts of options market professionals, must submit position and financial information to OCC for RMS processing. OCC will provide the results of RMS processing for such members to the appropriate participant exchanges. Each participant exchange will be required to execute a Risk Management System Participant Exchange Agreement. The limitations on OCC's liability in providing this service to the participant exchanges are described below.[2]

OCC also proposes to terminate its pilot program for OCC clearing members. OCC clearing members that subscribe to RMS will be required to execute a Risk Management System Clearing Member Agreement. Those OCC clearing members that submit data to OCC pursuant to a participant exchange mandate but that elect not to subscribe to RMS will not be required to execute an RMS agreement as such clearing members will not receive the results of RMS processing.

Both the Participant Exchange and the Clearing Member RMS Agreements state that OCC shall have no liability for any damage or loss suffered by RMS users in connection with their use of RMS or the information therefrom except upon a clear showing of OCC's knowing or intentional misconduct. The RMS Agreements further provide that OCC shall have no liability if OCC is unable to conduct or complete RMS processing or if OCC is unable to maintain the availability of RMS as a result of power outages, fires, computer malfunctions, acts of public authorities, natural disasters, or other causes beyond the control of OCC. The RMS Agreements also provide that OCC shall have no liability for consequential damages.

OCC does not believe that RMS will affect its capacity to clear options transactions because RMS processing does not begin until nightly processing is completed.

OCC believes that RMS is in the public interest and consistent with section 17A of the Act because it facilitates risk management of option positions. In addition, OCC believes that the terms of the RMS Agreements that limit OCC's liability are also consistent with section 17A of the Act. RMS is an ancillary service, and OCC's provision of RMS will not adversely affect the safeguarding of securities in OCC's custody or control or for which it is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which OCC consents, the Commission shall:

(a) By order approve such proposed rule change or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR-OCC-91-17 and should be submitted by January 2, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-29559 Filed 12-10-91; 8:45 am]

BILLING CODE 8010-01-M

[1] OCC anticipates performing continual, ongoing reviews of RMS which will result in additional enhancements to the system.

[2] To date, no exchanges other than OCC's participant exchanges have expressed any interest in the RMS system.

[Release No. 34-30024; File No. SR-PCC-91-01]

Self-Regulatory Organizations; The Pacific Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Post Clearing Fees

December 3, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 30, 1991, the Pacific Clearing Corporation ("PCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by PCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend PCC's schedule of fees to increase the monthly fee for post clearing services. The current charge for post clearing services is $2,295 per month. The proposal would increase this charge to $2,350 per month, which is an increase of $55 per month. Attached as exhibit A is the fee schedule containing PCC's current post clearing services fee.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PCC included statement concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The cost of providing post clearing operations has increased as a result of National Securities Clearing Corporation ("NSCC") and The Depository Trust Company ("DTC") fee increases for account services. As a result, PSE's Equity Revenue Committee ("Committee"), which is composed of five members, three of whom are governors of the Pacific Stock Exchange Incorporated ("PSE"), proposed an increase in the monthly fee for post clearing services provided to PSE specialists. The increase was also discussed and approved by PSE's Board of Governors ("PSE Board") on October 24, 1991, and by PCC's Board of Directors ("PCC Board") on October 25, 1991.

The proposed rule filing is consistent with section 17A(a)(3)(D) of the Act in that it provides for the equitable allocation of dues, fees, and charges among PCC members using the facilities of PCC.

B. Self-Regulatory Organization's Statement on Burden on Competition

PCC does not believe that the proposed rule change would impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The rule change was proposed by the Committee and was discussed and approved by the PSE Board on October 24, 1991, and by the PCC Board on October 25, 1991.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective on filing pursuant to section 19(b)(3)(A)(ii) of the Act and pursuant to rule 19b–4(e) promulgated thereunder because the proposed rule change establishes or changes a due, fee, or other charge imposed by PCC. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of PCC. All submissions should refer to File No. SR–PCC–91–01 and should be submitted by January 2, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

Exhibit A—PSE Equities: Floor and Specialist Fees and Charges

Floor Privilege Fee.	$165 per month for each registered floor member and registered clerk.
Specialist Fees.....	$425 per month service charge per post. $75 per month per post (counter space rental). 1.5% of specialist's commission income per month (for PSE specialist firms only).
Technology Fee	$500 per month per post.
Alternate Specialist Fees.	$200 initial fee. $100 for each additional issue traded. $50 ongoing monthly fee for each issue traded. $5 transaction fee per outgoing offboard trade.
Floor Broker Booths.	$75 per month for small booth. $150 per month for large booth. $300 per month for area booth.
Intermarket Trading System (ITS).	$0.005 per share on net outgoing specialist principal ITS trades, excluding preopening responses (charge for outgoing trades offset by cumulative credit for incoming trades).
Quotron and Telephone.	Passthrough charges.

Exhibit A—PSE Equities: Floor and Specialist Fees and Charges—Continued

Pacific Clearing Corporation:	
Post Cashiering.	$2,150 per month.
Post Clearing...	$2,295 per month.
Special Processing Fee.	$20 per balance order for dually traded, NSCC/DTC-ineligible item (specialist only).

[FR Doc. 91–29560 Filed 12–10–91; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–18429; 812–7784]

National Multi-Sector Fixed Income Fund, Inc. et al.; Notice of Application

December 3, 1991.

AGENCY: Securities and Exchange Commission (the "SEC" or "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: National Multi-Sector Fixed Income Fund, Inc., National Total Return Fund, National Stock Fund, National Total Income Fund, National Federal Securities Trust, National Securities Tax-Exempt Bonds, Inc., National Bond Fund, National Worldwide Opportunities Fund, Inc., National Global Allocation Fund, California Tax-Exempt Bonds, Inc., (the "Funds"), NSR Distributors, Inc. (the "Distributor"), and National Securities and Research Corporation (the "Manager").

RELEVANT 1940 ACT SECTIONS: Exemption requested pursuant to section 6(c) from the provisions of sections 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c) and 22(d) of the Act and rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek a conditional order under section 6(c) of the Act to permit the Funds (i) to issue two classes of securities representing interests in the same portfolio of securities, one of which would convert into the other after a specified period to permit investors to benefit from a lower rule 12b–1 distribution fee, and (ii) to assess a contingent deferred sales charge ("CDSC") on redemption of shares of one of the classes, and to waive the CDSC in certain cases.

FILING DATES: The application was filed on September 6, 1991 and amended on November 21, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 30, 1991, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o National Securities & Research Corporation, Two Pickwick Plaza, Greenwich, CT 06830.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Staff Attorney, (202) 272–2511, or Max Berueffy, Branch Chief, (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

A. The Dual Distribution System

1. Each of the Funds is an open-end management investment company registered under the Act. Each Fund has entered into or will enter into an investment management agreement with the Manager pursuant to which the Manager provides investment management and administrative services. The Distributor acts as principal underwriter of the Funds' shares. The Distributor, with respect to each Fund, has a dealer arrangement with unaffiliated broker-dealers pursuant to which those firms sell the Fund's shares.

2. The Funds are currently offered to investors at net asset value plus a front-end sales load. Each of the Funds pays a rule 12b–1 fee to the Distributor except for National Federal Securities Trust, National Bond Fund, California Tax-Exempt Bonds, Inc., and National Securities Tax-Exempt Bonds, Inc., which currently do not impose a rule 12b–1 fee. As required by rule 12b–1, holders of the existing class of shares will approve any necessary amendments to the rule 12b–1 plan (or will adopt a rule 12b–1 plan, if no such plan exists) for their respective shares prior to the implementation of a dual distribution arrangement. None of the Funds currently imposes a contingent deferred sales charge ("CDSC").

3. Applicants request that any relief granted pursuant to this application also apply to any open-end management investment company that now or in the future is in the same "group of investment companies" with the Funds, as defined in rule 11a–3 of the Act.

4. Applicants propose to establish a dual distribution arrangement (the "Dual Distribution System") to enable each of the Funds to offer investors the option of purchasing shares that would either be subject to a conventional front-end sales load and rule 12b–1 distribution fee (the "Front-End Option") or subject to a CDSC and a higher rule 12b–1 distribution fee (the "Deferred Option").

5. The Dual Distribution System will be implemented by having each of the Funds create another class of shares so that each Fund will offer two classes of shares, designated as "Class A" shares and "Class B" shares, respectively, with Class A shares being sold pursuant to the Front-End Load Option and Class B shares being sold pursuant to the Deferred Option. Each class will represent interests in the same portfolio of investments of a Fund and will differ only in the following respects: (a) The fees charged to the Class A shares and Class B shares under each such class's rule 12b–1 plan will only be applied against each such class; (b) a higher transfer agency fee may be imposed on the Class B shares than on the Class A; (c) shareholders of each of the Class A and Class B shares will have exclusive voting rights with respect to the rule 12b–1 plan applicable to their respective class of shares; (d) only the Class B shares will have a conversion feature providing for the automatic conversion to Class A shares within a specified period of years from issuance (which will be at least two years but will not exceed eight years); (e) the designation of each class of shares of a Fund; and (f) each class will have different exchange privileges.

6. Under the Front-End Option, an investor will purchase Class A shares at net asset value plus a front-end sales load. The sales load generally will be reduced for larger purchasers and under a right of accumulation. The sales load also will be subject to other reductions permitted by section 22(d) of the Act and rule 22d–1 thereunder and set forth in the registration statement of each Fund. In addition, Class A shareholders will be assessed an ongoing distribution fee under a rule 12b–1 plan at an expected annual rate of up to .30% of the average daily net asset value of the Class A shares. Proceeds from the sales load and distribution fee would be used to pay commissions for the sale of Class A shares and to defray expenses associated with providing services to investors choosing the Front-end Load Option.

7. Investors choosing the Deferred Option will purchase Class B shares at net asset value without the imposition of a sales load at the time of purchase. Each Fund will pay the Distributor a distribution fee pursuant to each Fund's rule 12b–1 plan at an annual rate of up to 1.00% of the average daily net asset value of the Class B shares. In addition, an investor's proceeds from a redemption of Class B shares made within a specified period of years of their purchase (which will not exceed six years) may be subject to a CDSC, as described below, which will be paid to the Distributor. The Deferred Option is designed to permit the investor to purchase Class B shares without the assessment of a front-end sales load. The distribution fee and the CDSC will be paid to the Distributor to defray expenses incurred by the Distributor in connection with the offer and sale of the Class B shares of the Funds.

8. Under a Fund's distribution plan, the Distributor will not be entitled to any specific percentage of the net asset value of each class of shares of the Fund. Each Fund's distribution plan will provide that payments will be made only to reimburse the Distributor for expenses incurred in providing distribution-related services (including, in the case of the Class B shares, commission expenses).[1] Each Fund will accrue and pay the distribution fee at a rate fixed by the Fund's board (but not in excess of the applicable maximum percentage rate). Such rate is intended to result in payments that will not exceed the amounts actually expended for distribution by the Distributor on behalf of the Fund. If, for any fiscal year of the Fund, the amount paid to the Distributor would exceed the amount of distribution expenses incurred by the Distributor during the past fiscal year (plus, in the case of Class B shares, prior unreimbursed commission-related expenses), then the amount of the

[1] Currently, National Global Allocation Fund does not have a reimbursement-type rule 12b–1 plan. If the Trustees of this Fund approve the Dual Distribution System, Applicants intend to change the existing rule 12b–1 plan for this Fund to a reimbursement-type rule 12b–1 plan.

distribution fee paid to the Distributor will be reduced accordingly.

9. The Distributor will furnish the Directors/Trustees of the Funds with quarterly and annual statements of distribution revenues and expenditures for each respective class of shares ("Statements"), in accordance with the requirements of paragraph (b)(3)(ii) of rule 12b–1, to enable the Directors/Trustees to make the findings required by paragraphs (d) and (e) of rule 12b–1. In the Statements only distribution expenditures properly attributable to the sale of a particular class will be used to justify the distribution fee charged to that class. Payments made to dealers for selling shares of either Class A or Class B will require no allocation between the classes. However, certain other distribution expenditures, properly attributed to the Fund as a whole, will be allocated to Class A and Class B shares based upon the ratio in which the sales of each class bears to the total sales of Class A and Class B shares.

10. All Class B shares of a Fund, other than those purchased through the reinvestment of dividends and distributions, will automatically convert to Class A shares at net asset value in a certain number of years after the end of the calendar month in which the shareholder's order to purchase was accepted (the "Conversion Period"), in the circumstances and subject to the qualifications described below. The Conversion Period will be the same respect to all Class B shares of the Funds and may be between two and eight years.

11. Shares purchased through the reinvestment of dividends and other distributions paid in respect to Class B shares are also Class B shares. However, for purposes of conversion to Class A, all such Class B shares will be considered to be held in a separate sub-account. Each time any Class B shares in the shareholder's Fund account (other than those in the sub-account referred to in the preceding sentence) convert to Class A, a *pro rata* portion of the Class B shares in the sub-account also will convert to Class A. The portion will be determined by the ratio that the shareholder's Class B shares converting to Class A shares bears to the shareholder's total Class B shares not acquired through dividends and distributions.

12. The conversion of Class B shares to Class A shares is subject to the continuing availability of an opinion of counsel or a ruling of the Internal Revenue Service that payment of different dividends on Class A and Class B shares does not result in the Fund's dividends and distributions constituting "preferential dividends" under the Internal Revenue Code of 1986, as amended (the "IRC"), and that the conversion of shares does not constitute a taxable event under current federal income tax law. The conversion of Class B shares to Class A shares may be suspended if such an opinion or ruling is no longer available. In the event that conversions of Class B shares do not occur, Class B shares would continue to be subject to the higher distribution fee and any higher transfer agent costs attending the Deferred Option for an indefinite period.

13. Class A shares of a Fund will be exchangeable only for Class A shares of the other Funds. Class B shares of a Fund will be exchangeable only for Class B shares of the other Funds.

14. Under the Dual Distribution System, the net asset value of all outstanding shares of the two classes would be computed on the following basis. Net investment income and unrealized and realized gains or losses will be allocated daily to each share class based on the percentage of net assets at the beginning of each day. Daily expenses of the Fund will be allocated to each share class depending on the nature of the expense item. Operating expenses, which are attributable to both classes, will be allocated daily to each share class based on the percentage of net assets at the beginning of the day. Certain expenses that have a greater cost for one class versus the other (*i.e.*, 12b–1 distribution fees and possibly transfer agent fees) will be allocated to the respective classes separately. Because of the ongoing distribution fee and potentially higher transfer agency fee paid by the holders of Class B shares, the net income attributable to and the dividends payable on Class B shares would be lower than the net income attributable to and dividends payable on Class A shares.

B. The CDSC

1. Applicants also seek an exemption from the provisions of sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act, and rule 22c–1 thereunder to permit the Funds to assess a CDSC on redemptions of Class B shares, and to permit the Funds to waive the CDSC for certain types of redemptions. The amount of the CDSC to be imposed will depend on the number of years since the investor purchased the shares being redeemed, as set forth in each Fund's prospectus. Each Fund's particular CDSC schedule may vary, but the CDSC will comply with the NASD sales load limitations and the provisions of proposed rule 6c–10.

2. The CDSC will not be imposed on redemptions of shares purchased more than six years prior to the redemptions (the "CDSC Period") or on Class B shares derived from reinvestment of distributions. Furthermore, no CDSC will be imposed on an amount which represents an increase in the value of the shareholder's account resulting from capital appreciation above the amount paid for shares purchased during the CDSC Period. In determining the applicability and rate of any CDSC, it will be assumed that a redemption is made first of shares representing capital appreciation, next of shares derived from reinvestment of dividends and capital gain distributions, and finally, of other shares held by the shareholder for the longest period of time. Redemption requests placed by shareholders who own both Class A and Class B shares of a Fund will be satisfied first by redeeming the shareholder's Class A shares, unless the shareholder has made a specific election to redeem Class B shares. The Funds' compliance procedures will reflect this policy.

3. In addition, Applicants seek the ability to waive the CDSC (a) on redemptions following the death or disability, as defined in section 72(m)(7) of the IRC, of a shareholder if redemption is made within one year of death or disability; (b) in connection with certain distributions from an Individual Retirement Account ("IRA"), or other qualified retirement plan as described in the application; (c) in connection with redemptions of shares purchased by active or retired officers, directors or trustees, partners and employees of the Fund, the Distributor or affiliated companies, by members of the immediate families of such persons and by dealers having a sales agreement with the Distributor; (d) in connection with redemptions pursuant to a Fund's systematic withdrawal plan; (e) in part, in connection with redemptions by shareholders holding shares of a Fund worth over $1 million immediately prior to redemption; (f) in connection with redemptions the proceeds of which are reinvested in shares of the same Fund within 365 days after such redemption; [2] (g) in connection with redemptions effected by advisory accounts managed by the Manager; (h) in connection with certain redemptions by tax-exempt employee benefit plans; (i) in connection with certain redemptions effected by registered investment companies by virtue of transactions with a Fund; (j) in

[2] Any credit given to an investor for reinvestment in a Fund will be paid by the Distributor, not by the Fund.

connection with certain redemptions by any state, county, or city, or any instrumentality, department, authority or agency thereof, and by trust companies and bank trust departments; and (k) in connection with the exercise of certain exchange privileges among the Class B shares of the Funds. If the Funds waive or reduce the CDSC, such waiver or reduction will be uniformly applied to all offerees in the class specified.

4. If the Directors/Trustees of a Fund determine to discontinue the waiver or reduction of the CDSC, the disclosure in the Fund's prospectus will be appropriately revised. Also, any Class B shares purchased prior to the termination of such waiver or reduction will be able to have the CDSC waived or reduced as provided in the Fund's prospectus at the time of the purchase of such shares.

Applicants' Legal Analysis

A. The Dual Distribution System

1. Applicants, pursuant to section 6(c) of the Act, seek an exemption from sections 18(f)(1), 18(g), and 18(i) to the extent the Dual Distribution System may result in a senior security, as defined by section 18(g), the issuance and sale of which would be prohibited by section 18(f)(1), and to the extent the allocation of voting rights under the Dual Distribution System may violate the provisions of section 18(i). Applicants believe that the Dual Distribution System does not raise any of the legislative concerns that section 18 of the Act was designed to ameliorate. The proposal does not involve borrowings and does not affect the Funds' existing assets or reserves. In addition, the proposed arrangement will not increase the speculative character of the shares of the Funds since all such shares will participate pro rata in all of a Fund's appreciation, income, and expenses with the exception of the differing distribution fees and any different transfer agency costs payable by each class. In this way, mutuality of risk will be preserved with respect to each class of shares of a Fund.

2. Both classes of shares will be redeemable at all times (subject to the same limitations set forth in a Fund's prospectus and statement of additional information) and no class of shares will have any preference or priority over any other class in a Fund in the usual sense (that is, no class will have distribution or liquidation preferences with respect to particular assets and no class will be protected by any reserve or other account). In addition, investors will not be given misleading impressions as to the safety or risk of the Class A and Class B shares since the similarities (and, with respect to the rule 12b–1 distribution plans and associated voting rights, the Class B conversion feature, the transfer agency costs, and the exchange privileges, the dissimilarities) of the Class A and Class B shares will be fully disclosed in each Fund's prospectus and statement of additional information.

3. Applicants believe that the proposed allocation of expenses and voting rights relating to the rule 12b–1 plans is equitable and would not discriminate against any group of shareholders.

4. Applicants believe that the Dual Distribution System will both facilitate the distribution of shares by the Funds and provide investors with a broader choice as to the method of purchasing shares in the Funds. In addition, applicants believe owners of each class of shares may be relieved of a portion of the fixed costs normally associated with investing in mutual funds since such costs would, potentially, be spread over a greater number of shares than would otherwise be the case. Finally, the conversion feature will benefit long-term Class B shareholders by relieving them of most of the burden of distribution expenses after a period of time sufficient for the Distributor to be compensated for the expenses incurred in connection with the distribution of shares.

B. The CDSC

1. Applicants believe that the imposition of the CDSC on the Class B shares of the Funds is fair and in the best interests of their shareholders. The proposed Dual Distribution System permits Class B shareholders to have the advantage of greater investment dollars working for them from the time of their purchase of Class B shares of the Funds than if a sales load were imposed at the time of purchase, as is the case with Class A shares. Furthermore, the CDSC is fair to Class B shareholders because it applies only to amounts representing purchase payments and does not apply to amounts representing increases in the value of an investor's account through capital appreciation, or to amounts representing reinvestment of distributions.

2. The imposition of the CDSC is appropriate in light of the relationship between the CDSC and the rule 12b–1 plans to be adopted by the Funds. When Class B shares are redeemed prior to the expiration of the CDSC period, these amounts no longer contribute to the annual distribution fee. Therefore, applicants believe that it is fair to impose on a withholding Class B shareholder a lump sum payment reflecting expenses that have not been recovered through payments by the Funds. The proceeds from the CDSC will also reduce the amount of distribution expenses that must be borne by the remaining shares.

3. Applicants submit that the waiver of the CDSC will not harm the Funds or their remaining Class A or Class B shareholders or unfairly discriminate among shareholders or purchasers.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

A. Conditions Relating to the Dual Distribution System.

1. Each class of shares will represent interests in the same portfolio of investments of a Fund and be identical in all respects, except as set forth below. The only differences between the two classes of shares of the same Fund will related solely to: (a) The impact of the respective rule 12b–1 plan payments made by each of the Class A shares and Class B shares of a Fund, any higher incremental transfer agency costs attributable solely to the Class B shares of a Fund, and any other incremental expenses subsequently identified that should be properly allocated to one class which shall be approved by the Commission pursuant to an amended order, (b) voting rights on matters which pertain to rule 12b–1 plans, (c) the different exchange privileges of the two classes of shares as described in the prospectuses (and as more fully described in the statements of additional information) of the Funds, (d) the conversion feature applicable only to the Class B shares, and (e) the designation of each class or shares of a Fund.

2. The Directors/Trustees of each of the Funds, including a majority of the Independent Directors/Trustees, shall have approved the Dual Distribution System prior to the implementation of the Dual Distribution System by a particular Fund. The minutes of the meetings of the Directors/Trustees of each of the Funds regarding the deliberations of the Directors/Trustees with respect to the approvals necessary to implement the Dual Distribution System will reflect in detail the reasons for determining that the proposed Dual Distribution System is in the best interests of both the Funds and their respective shareholders and such minutes will be available for inspection by the Commission staff.

3. On an ongoing basis, the Directors/Trustees of the Funds, pursuant to their

fiduciary responsibilities under the Act and otherwise, will monitor each Fund for the existence of any material conflicts between the interests of the two classes of shares. The Directors/Trustees, including a majority of the Independence Directors/Trustees, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The Manager and the Distributor will be responsible for reporting any potential or existing conflicts to the Directors/Trustees. If a conflict arises, the Manager and the Distributor at their own costs will remedy such conflict up to and including establishing a new registered management investment company.

4. Any rule 12b–1 plan adopted or amended to permit the assessment of a rule 12b–1 fee on any class of shares which has not had its rule 12b–1 plan approved by the public shareholders of that class will be submitted to the public shareholders of such class for approval at the next meeting of shareholders after the initial issuance of the class of shares. Such meeting is to be held within 16 months of the date that the registration statement relating to such class first becomes effective or, if applicable, the date that the amendment to the registration statement necessary to offer such class of shares first becomes effective.

5. The Directors/Trustees of the Funds will receive quarterly and annual Statements complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the Statements, only distribution expenditures properly attributable to the sale of one class of shares will be used to support the reimbursement of such expenditures through the rule 12b–1 fee charged to shareholders of such class of shares. Expenditures not related to the sale of a specific class of shares will not be presented to the Directors/Trustees to support the reimbursement of such expenditures through rule 12b–1 fees charged to shareholders of such class of shares. The Statements, including the allocations upon which they are based, will be subject to the review and approval of the Independent Directors/Trustees in the exercise of their fiduciary duties under rule 12b–1.

6. Dividends paid by a Fund with respect to each class of shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be in the same amount, except that fee payments made under the rule 12b–1 plans relating to the Class A and Class B shares, respectively, will be borne exclusively by each such class and except that any higher incremental transfer agency costs attributable solely to Class B or Class A shares be borne exclusively by such class.

7. The methodology and procedures for calculating the net asset value and dividend/distributions of the two classes and the proper allocation of income and expenses between the two classes has been reviewed by an expert (the "Independent Examiner"). The Independent Examiner has rendered a report to the applicants, which has been included as Exhibit D, stating that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner, subject to the conditions and limitations in that report. On an ongoing basis, the Independent Examiner, or an appropriate substitute Independent Examiner, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Funds that the calculations and allocations are being made properly. The reports of the Independent Examiner shall be filed as part of the periodic reports filed with the SEC pursuant to section 30(a) and 30(b) (1) of the Act. The work papers of the Independent Examiner with respect to such reports, following request by the Funds which the Funds agree to make, will be available for inspection by the Commission staff upon the written request for such work papers by a senior member of the Division of Investment Management or of a Regional Office of the Commission, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director, and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Independent Examiner is a "Special Purpose" report on the "Design of a System," and the ongoing reports will be "Special Purpose" reports on the "Design of a System and Certain Compliance Tests" as defined and described in SAS No. 44 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

8. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends/distributions between the two classes of shares and the proper allocation of income and expenses between such classes of shares and this representation has been concurred with by the Independent Examiner in the initial report referred to in condition (7) above and will be concurred with by the Independent Examiner, or an appropriate substitute Independent Examiner, on an ongoing basis at least annually in the ongoing reports referred to in condition (7) above. Applicants agree to take immediate corrective action if the Independent Examiner, or appropriate substitute Independent Examiner, does not so concur in the ongoing reports.

9. The prospectuses of the Funds will include a statement to the effect that a salesperson and any other person entitled to receive compensation for selling Fund shares may receive different levels of compensation for selling one particular class of shares over another in a Fund.

10. The Distributor will adopt compliance standards as to when Class A and Class B shares may appropriately be sold to particular investors. Applicants will require all persons selling shares of the Funds to agree to conform to these standards.

11. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the Directors/Trustees of the Funds with respect to the Dual Distribution System will be set forth in guidelines which will be furnished to the Directors/Trustees as part of the materials setting forth the duties and responsibilities of the Directors/Trustees.

12. Each Fund will disclose in its prospectus the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of shares offered through the prospectus. Class A and Class B shares will be offered and sold through a single prospectus. The shareholder reports of each Fund will disclose the respective expenses and performance data applicable to each class of shares in every shareholder report. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to the Fund as a whole generally and not on a per class basis. Each Fund's per share data, however, will be prepared on a per class basis with respect to the two classes of shares of such Fund. To the extent any advertisement or sales literature describes the expenses or performance data applicable to Class A or B shares, it will disclose the expenses and/or performance data applicable to both classes. The information provided by Applicants for publication in any

newspaper or similar listing of the Funds' net asset values and public offering prices will separately present Class A and Class B shares.

13. The Applicants acknowledge that the grant of the exemptive order requested by this application will not imply Commission approval, authorization or acquiescence in any particular level of payments that the Funds may make pursuant to rule 12b–1 plans in reliance on the exemptive order.

14. Class B shares will convert to Class A shares on the basis of the relative net asset values of the two classes without the imposition of any sales load, fee or other charge.

B. Condition Relating to the CDSC

1. Applicants will comply with the provisions of proposed rule 6c–10 under the Act (See Investment Company Act Release No. 16619 (Nov. 2, 1988)), as such rule is currently proposed and as it may be reproposed, adopted or amended.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–29561 Filed 12–10–91; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1–5200]

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; Synalloy Corporation, Common Stock, $1.00 Par Value; Common Stock Purchase Rights

December 5, 1991.

Synalloy Corporation ("Company") has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2–2(d) promulgated thereunder to withdraw the above specified securities from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

According to the Company, on November 7, 1991, it unanimously approved to withdraw the Company's Common Stock from listing on the Amex and, instead, list such Common Stock on the National Association of Securities Dealers Automated Quotations/National Market System ("NASDAQ/NMS"). The Company's decision followed a lengthy study of the matter, and was based upon the Company's belief that listing of the Common Stock on NASDAQ/NMS will be more beneficial to its shareholders than the present listing on the Amex. The Company's belief is based on the following:

(1) The Company believes that the NASDAQ/NMS system of competing market makers will result in increased visibility and sponsorship for its Common Stock than is presently the case with the single specialist on the Amex;

(2) The Company believes that the NASDAQ/NMS system will offer the Company's shareholders more liquidity than is presently available on the Amex and less volatility in quoted price per share when trading volume is slight;

(3) The Company believes that the NASDAQ/NMS system will offer the opportunity for the Company to secure its own group of market makers and expand the capital base available for trading in the Common Stock; and

(4) The Company believes that the firms making a market in the Company's Common Stock on the NASDAQ/NMS system will also be inclined to issue research reports concerning the Company, thereby increasing the number of firms providing institutional research and advisory reports.

Any interested person may, on or before December 27, 1991, submit by letter to the Secretary of the Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–29562 Filed 12–10–91; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

December 5, 1991.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980. Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171, Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0188.

Form Number: ATF F 5100.1.

Type of Review: Extension.

Title: Signing Authority for Corporate Officials.

Description: ATF F 5100.1 is substituted instead of a regulatory requirement to submit corporate documents or minutes of a meeting of the Board of Directors to authorize an individual or office to sign for the corporation in ATF matters. The form identifies the corporation, the individual or office authorized to sign, and documents the authorization.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 1,000.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 250 hours.

Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 91–29584 Filed 12–10–91; 8:45 am]

BILLING CODE 4810–31–M

Customs Service

Proposed Adjustment of Ad Valorem User Fee for Imported Merchandise

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of intent to adjust fee rate; request for comments.

SUMMARY: Notice is hereby given that Customs proposes to adjust the merchandise processing user fee on

formal entries of imported merchandise at 0.19 percent ad valorem, pursuant to the Omnibus Budget Reconciliation Act of 1986.

DATE: Comments must be received on or before January 10, 1992.

ADDRESS: Comments (preferably in triplicate) must be submitted to and may be inspected at the Regulations and Disclosure Law Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., room 2119, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Linda Walfish, User Fee Task Force (202–566–8648).

SUPPLEMENTARY INFORMATION:

Background

Section 8101 of the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99–509) (codified as 19 U.S.C. 58c), provided that, with certain exceptions, an ad valorem user fee was to be collected by Customs on formal entries of merchandise entered, or withdrawn from warehouse, for consumption, beginning on December 1, 1986. The fee was to be based on the appraised Customs value of the merchandise. The Act provided that the proceeds of the user fees were to be deposited in a dedicated account of the Treasury and, subject to authorization and appropriation, were to be used to offset Customs appropriations for the salaries and expenses of Customs incurred in conducting commercial operations.

The current merchandise processing fee is 0.17 percent ad valorem, subject to a maximum fee of $400 and a minimum fee of $21. T.D. 91–33, 56 FR 15036; 19 CFR 24.23(b)(1)(i)(A). However, pursuant to 19 U.S.C. 58c(a)(9)(B)(i), the Secretary of the Treasury can, under certain conditions, adjust the fee rate to a maximum of 0.19 percent ad valorem, in order to offset the salaries and expenses that will likely be incurred by Customs in the processing of formal entries and releases during the fiscal year in which such costs have been incurred.

Customs has projected that an increase is needed in order to offset the salaries and expenses which are being incurred in Fiscal Year (FY) 1992. In this regard, Customs has estimated the number of entries and releases expected to be processed during FY 1992, and has also estimated the value of FY 1992 imports. Estimates have also been made of the number of entries and releases, and their values, which would be subject to the minimum, ad valorem and maximum merchandise processing rates, as noted above. Specifically, for FY 1992, the Customs commercial costs are expected to be $726 million. The current fee is inadequate to generate sufficient revenues. At the 0.19 percent rate, it is anticipated that $527 million in fees will be generated. To elaborate, approximately $96 million will be lost due to statutory exemptions from the merchandise processing fee, and the remaining $105 million will not be recovered due to other statutory limitations. Merchandise processing revenues at the 0.19 percent rate would come close to offsetting the $726 million in costs, but when exempted categories of merchandise and fee adjustment restrictions are taken into consideration, a shortfall of approximately $200 million will still exist.

Accordingly, it is proposed to adjust the merchandise processing fee to 0.19 percent ad valorem on formal entries of imported merchandise which are subject to this fee.

Section 58c(a)(9)(B), as amended, 19 U.S.C. 58c(a)(9)(B), provides for a period of not less than 30 days within which to solicit public comment through a notice in the **Federal Register**, and to consult with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the proposed adjustment. Upon the expiration of this period, notification to such committees of the final adjustment shall be made. Upon the expiration of the 15-day period following such notification, a notice of the final adjustment must be submitted for publication in the **Federal Register**, and any adjustment shall become effective with respect to formal entries and releases on or after the 15th day following publication.

Comments

Before adopting the proposed increase in the merchandise processing fee rate, Customs will give consideration to any written comments (preferably in triplicate) that are timely submitted. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on normal business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations and Disclosure Law Branch, room 2119, Customs Headquarters, 1301 Constitution Avenue, NW., Washington, DC.

Drafting Information

The principal author of this document was Russell Berger, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

Michael H. Lane,

Acting Commissioner of Customs.

Approved: December 9, 1991.

Nancy L. Worthington,

Acting, Assistant Secretary of the Treasury.

[FR Doc. 91–29677 Filed 12–10–91; 8:45 am]

BILLING CODE 4820–02–M

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

The President's General Advisory Committee on Arms Control and Disarmament; Closed Meeting

In accordance with the Federal Advisory Committee Act, as amended, the U.S. Arms Control and Disarmament Agency announces the following Presidential Committee meeting:

Name: General Advisory Committee on Arms Control and Disarmament.

Date: November 18–19, 1991.

Time: 9 a.m.

Place: State Department Building, Washington, DC, OSIA, Dulles Airport, Washington, DC.

Type of Meeting: Closed.

Contact: Robert M. Meissner, Executive Director, General Advisory Committee on Arms Control and Disarmament, room 5927, Washington, DC, 20451 (202) 647–5178.

Purpose of Advisory Committee: To advise the President, the Secretary of State, and Director of the Arms Control and Disarmament Agency respecting matters affecting arms control, disarmament, and world peace.

Agenda: The Committee will review specific national security policy and arms control issues. Members will be briefed on several alternative approaches to verification and implementation procedures with particular emphasis on current and near term requirements.

Reason for Closing: The GAC members will be reviewing and discussing matters specifically required by Executive Order to be kept secret in the interest of national defense and foreign policy.

Authority to Close Meeting: The closing of this meeting is in accordance with a determination by the Director of the Arms Control and Disarmament Agency dated October 16, 1991, made pursuant to the provisions of section 10(d) of the Federal Advisory Committee Act as amended.

Editorial Note: This document was received at the Office of the Federal Register on December 6, 1991.

William J. Montgomery,

Committee Management Officer.

[FR Doc. 91-29571 Filed 12-10-91; 8:45 am]

BILLING CODE 6820-32-M

UNITED STATES INFORMATION AGENCY

Public and Private Non-Profit Organizations in Support of International Education and Cultural Activities

AGENCY: United States Information Agency.

ACTION: Notice—Request for proposals.

SUMMARY: The Office of Citizen Exchanges (E/P) announces a discretionary grants program in support of non-profit organizations in support of projects that link their international exchange interests with counterpart institutions/groups in other countries in ways supportive of the aims of the Bureau of Educational and Cultural Affairs. Interested applicants are urged to read the complete **ederal Register** announcement before addressing inquiries to the Office or submitting their proposals.

DATES: This action is effective from the publication date of this notice through February 28, 1992, for projects whose activities will begin between July 1, 1992, and December 31, 1992.

APPLICATION DEADLINES: Proposals must be received at the U.S. Information Agency by 5 p.m. EST on February 28, 1992. Proposals received by the Agency after this deadline will not be eligible for consideration. Faxed documents will not be accepted, nor will documents postmarked February 28, 1992, but received at a later date.

ADDRESSES: The original and 16 copies of the completed application, including required forms, should be submitted by the deadline to: U.S. Information Agency, Office of Executive Director (E/X), REF: E/P Discretionary Grant Competition, Room 357, 301 4th Street SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Interested organizations/institutions must contact the Office of Citizen Exchanges, Bureau of Educational and Cultural Affairs, United States Information Agency, 301 4th Street SW., Washington, DC 20547, 202/619-5348, to request detailed application packets, which include award criteria additional to this announcement, all necessary forms, and guidelines for preparing proposals, including specific budget preparation information.

SUPPLEMENTARY INFORMATION: The Office of Citizen Exchanges the United States Information Agency announces a program to encourage, through limited awards to non-profit institutions, increased private sector commitment to and involvement in international exchanges. Awarding of any and all grants is contingent upon the availability of funds.

The Office of Citizen Exchanges works with U.S. private sector non-profit organizations on cooperative international group projects that introduce American and foreign participants to each others' cultural and artistic traditions; social, economic, and political structures; and international interests. The Office supports international projects in the United States or overseas involving leaders or potential leaders in the following fields and professions: Leaders of cultural institutions, urban planners, jurists, specialized journalists (specialists in economics, business, culture, political analysis, international affairs), business professionals, environmental specialists, parliamentarians, educators, economic planning and other government officials.

The Office of Citizen Exchanges strongly encourages the coordination of these activities with respected universities, professional associations, and major cultural institutions in the U.S. and abroad, but particularly in the U.S. Projects should be intellectual and cultural, not technical. Vocational training (an occupation other than one requiring a baccalaureate or higher academic degree; i.e., clerical work, auto maintenance, etc., and other occupations requiring less than two years of higher education) and technical training (special and practical knowledge of a mechanical or a scientific subject which enhances mechanical, narrowly scientific, or semi-skilled capabilities) are ineligible for support. In addition, scholarship programs are ineligible for support. Each private sector activity must maintain a non-political character, should maintain its scholarly integrity, meet the highest professional standards, and reflect the balance and diversity of American society.

Proposals for projects taking place in the United States or overseas are welcome for topics that involve any area of the world. However, the Office will place priority on those that involve Africa, Latin America, the Middle East, and Southeast Asia (especially Indonesia, Malaysia, Thailand, and the Philippines).

The Office does not support proposals limited to conferences or seminars (i.e., one to fourteen-day programs with plenary sessions, main speakers, panels, and a passive audience). It will support conferences only insofar as they are part of a large project in duration and scope which is receiving USIA funding from this competition. USIA-supported projects may include internships; study tours; short-term, non-technical training; and extended, intensive workshops taking place in the United States or overseas.

The participation of a respected university or scholarly organization is decidedly advantageous. Further, the themes addressed in these exchange programs must be of long-term importance, rather than focused exclusively on current events or short-term issues. In every case, a substantial rationale must be presented as part of the proposal, one that clearly indicates the distinctive and important contribution of the overall project, including where applicable the expected yield of any associated conference.

No funding is available exclusively to send U.S. citizens to conferences or conference-type seminars overseas; neither is funding available for bringing foreign nationals to conferences or to routine professional association meetings in the United States.

Projects that duplicate what is routinely carried out by private sector and/or public sector operations will not be considered. USIS post consultation by applicants, prior to submission of proposals, is strongly recommended for all programs.

Grants awarded to eligible organizations with less than four years experience in conducting international exchange programs will be limited to $60,000.

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, and social and cultural life.

Creative Arts Grant Program

The Creative Arts Division (E/PA), Office of Citizen Exchanges, encourages proposals from U.S. non-profit organizations for exchanges of professionals in the following fields: Music, dance theater, literature, visual arts, architecture, folk arts, crafts and folklore, museum exchanges, and historical/cultural conservation/preservation.

Proposals must include an international exchange of persons component involving cultural leaders

and commentators, critics, administrators and professionals in the above-mentioned fields. Priority consideration will be accorded to institutionally-based projects involving artists in the creation of their particular art forms. Proposed projects may operation either to or from the United States, preferably in both directions. Proposals potentially leading to institutional linkages will receive priority consideration in the review process.

E/PA projects support USIS posts by providing: (a) Vehicles for professional interaction between arts/museum communities in the United States and other countries; (b) vehicles for creating ongoing institutional linkages between American arts organizations and their counterparts in other countries;

(c) Vehicles for USIS officers to use for substantive contacts with key members/groups in their arts constituencies.

E/PA projects taking place in the U.S. operate as competitions in which participating USIS posts retain exclusive nomination prerogative of candidates for awards, while the American arts organizations retain selection prerogative of award-winners. Awards will consist of travel and per diem expenses to attend the event or participate in the activity partially funded under the terms of E/PA grants.

Projects to send American professionals to other countries must include assurances of quality, fairness and balance in the selection of participants.

Creative Arts Program Exclusions

E/PA does not accept proposals for the support of performing arts productions or tours, film festivals, independently-operating international competitions, community-level arts presentations for general audiences, exhibits, or academic arts programs. E/PA does not support conferences or seminars except insofar as they are integral parts of larger projects leading to institutional linkages. Conditions for such support are the same as for those defined above, under General Information.

Additional Guidelines and Restrictions

Office of Citizen Exchanges grants are not given to support projects whose focus is limited to technical or vocational subjects, or for research projects, for youth or youth-related activities (participants' age under 25), for publications funding, for student and/or teacher/faculty exchanges, for film festivals and exhibits. Nor does this office provide scholarship or support for long-term (a semester or more) academic studies. Competitions sponsored by other Bureau offices are also announced in the **Federal Register.**

For projects that would begin after December 31, 1992, competition details will be announced in the **Federal Register** on or about June 1, 1992. Inquiries concerning technical requirements are welcome prior to submission of applications.

Application Requirements

Proposals must contain a narrative which includes a complete and detailed description of the proposed program activity as follows:

1. A brief statement of what the project is designed to accomplish, how it is consistent with the purposes of the USIA award program, and how it relates to USIA's mission.

2. A concise description of the project, spelling out complete program schedules and proposed itineraries, who the participants will be, where they will come from, and how they will be selected.

3. A statement of what follow-up activities are proposed, how the project will be evaluated, what groups, beyond the direct participants, will benefit from the project and how they will benefit.

4. A detailed three-column budget.

Funding and Budget Requirements for all Submissions

The Office of Citizen Exchanges requires co-funding with grantees in all projects. Proposals with cost sharing of less than 33 percent of the total project cost must provide exceptionally strong and convincing justification even to receive consideration and in any event, would stand a low chance of being funded. Since USIA grant assistance constitutes only a portion of total project funding, proposals should list and provide evidence of other anticipated sources of support. Grant applications should demonstrate substantial financial and in-kind support using a three-column format that clearly displays cost-sharing support of proposed projects.

Funding assistance is limited to participant travel and per diem requirements with modest contributions to defray administrative costs (salaries, benefits, other direct and indirect costs), which for this year may not exceed 20 percent of the total funds requested. The grantee institution may wish to cost-share any of these expenses. Organizations with less than four years' experience in conducting international exchange programs are limited to $60,000 of USIA support, and their budget submissions should not exceed this amount. In most cases, grant proposals may not exceed a limit of $150,000 in the amount requested from USIA.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the application packet. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will also be reviewed by the Agency's Office of General Counsel, the appropriate geographic area office, and the budget and contracts offices. Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with USIA's contracting officer.

Review Criteria

USIA will consider proposals based on the following criteria:

1. *Quality of Program Idea:* Proposal should exhibit originality, substance, rigor, and relevance to Agency mission

2. *Institution Reputation/Ability/Evaluations:* Institutional grant recipients should demonstrate potential for program excellence and/or track record of successful programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants (if any) as determined by USIA's Office of Contracts (M/KG). Relevant evaluation results of previous projects are part of this assessment.

3. *Project Personnel:* Personnel's thematic and logistical expertise should be relevant to the proposed program.

4. *Program Planning:* Detailed agenda and relevant work plan should demonstrate substantive rigor and logistical capacity.

5. *Thematic Expertise:* Proposal should demonstrate expertise in the subject area which guarantees an effective sharing of information.

6. *Cross-Cultural Sensitivity/Area Expertise:* Evidence of sensitivity to historical, linguistic, and other cross-cultural factors; relevant knowledge of geographic area should be evident.

7. *Ability to Achieve Program Objectives:* Objectives should be reasonable, feasible, and flexible. Proposal should clearly demonstrate how the grantee institution will meet the program's objectives.

8. *Multiplier Effect:* Proposed programs should strengthen long-term understanding, to include maximum

sharing of information and establishment of long-term institutional ties.

9. *Cost—Effectiveness:* The overhead and administrative components should be kept as low as possible. All other items should be necessary and appropriate to achieve the program's objectives.

10. *Cost-Sharing:* Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

11. *Follow-on Activities:* Proposals should provide a plan for continued exchange activity (without USIA support) which insures that USIA-supported programs are not isolated events.

12. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success.

Technical Requirements

Proposals can only be accepted for review when they are fully in accord with the terms of this RFP, as well as with Project Information Requirements (OMB #3116–0175) as follows:

1. Bureau of Educational and Cultural Affairs Grant Application Cover Sheet (OMB #3116–0173).

2. Assurance of Compliance with U.S. Information Agency Regulations under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and Title IX of the Education Amendments of 1972 (OMB #3116–0191).

3. Certification Regarding Drug-Free Workplace Requirements for Grantees Other Than Individuals.

4. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, Primary Covered and Lower Tier Covered Transactions, Forms IA–1279 and IA–1280.

5. Compliance with Office of Citizen Exchanges Additional Guidelines for Conferences (if applicable).

6. Compliance with Travel Guidelines for Organizations Inside and Outside Washington, DC (if and as applicable).

7. For proposals requesting $100,000 or more in grant monies, Disclosure of Lobbying Activities (OMB #0348–0046).

Additional forms may be obtained by writing to the Office of Citizen Exchanges (E/P), USIA, 301 4th Street, SW., Washington, DC 20547.

Additional Guidance

The Office of Citizen Exchanges offers the following additional guidance to prospective applicants:

1. The Office of Citizen Exchanges encourages project proposals involving more than one country. However, single-country projects that are clearly defined and possess the potential for creating and strengthening continuing linkages between foreign and U.S. institutions are also welcome.

2. Proposals for bilateral programs are subject to review and comment by the USIS post in the relevant country, and pre-selected participants also will be subject to USIS post review.

3. Bilateral programs should clearly identify the counterpart organization and provide evidence of the organization's participation.

4. The Office of Citizen Exchanges will consider proposals for activities in other countries when USIS posts are consulted in the design of the proposed program and in the choice of the most suitable venues for such programs.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the government. Final award cannot be made until funds have been fully appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about June 1, 1992. Awarded grants will be subject to periodic reporting and evaluation requirements.

Dated December 1, 1991.

R. Barry Fulton,

Deputy Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 91–29622 Filed 12–10–91; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 238
Wednesday, December 11, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL HOUSING FINANCE BOARD

TIME AND DATE: 9:00 a.m. Tuesday, December 17, 1991.

PLACE: Board Room, Second Floor, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

PORTIONS OPEN TO THE PUBLIC: The Board will consider the following:

1. District Banks Directorate Monthly Reports
2. Consideration of Affordable Housing Program (AHP) Awards
3. Consideration of the following Regulations:
   A. Freedom of Information Act Regulations (Proposed)
   B. Regulation Describing Finance Board Organizational Structure (Final)
   C. Sunshine Act Regulations (Proposed)
   D. Privacy Act Regulations (Proposed)
   E. Finance Board Operational Regulations (Proposed)

PORTIONS CLOSED TO THE PUBLIC: The Board will consider the following:

1. Approval of the November Board Minutes.
2. Legislative/Strategic Discussion.
3. Filling Elective and Appointive Bank System Director Vacancies & Chairman Designations.
4. Approval of Seattle Benefit Equalization Plan (BEP).
5. Examination Reports.

The above matters are exempt under one or more of sections 552b(c)(2), (2), (6), (8), (9)(A) and (9)(B) of title 5 of the United States Code. 5 U.S.C. 552b(c)(2), (2), (6), (8), (9)(A) and (9)(B).

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Executive Secretary to the Board, (202) 408-2837.

J. Stephen Britt,

Executive Director.

[FR Doc. 91-29690 Filed 12-9-91; 11:07 am]

BILLING CODE 6725-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

December 5, 1991.

TIME AND DATE: 10:00 a.m., Thursday, December 12, 1991.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Charles T. Smith v. KEM Coal Company*, Docket No. KENT 90-30-D. (Issues include whether the judge erred in concluding that KEM violated 30 U.S.C. § 815(c) by suspending and discharging Smith.)
2. *Amos R. Hicks v. Cobra Mining, Inc., et al.*, Docket No. VA 89-72-D. (Issues include whether the judge erred in determining the amount of costs and expenses due Hicks as a result of his discharge by Cobra in violation of 30 U.S.C. § 815(c).
3. *Ronny Boswell v. National Cement Co.*, Docket No. SE 90-112-D. (Issues include whether the judge erred in concluding that National Cement violated 30 U.S.C. § 815(c) by transferring Boswell to a different job.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR § 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653-5629/(202) 708-9300 for TDD Relay 1-800-877-8339 (Toll Free).

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 91-29694 Filed 12-9-91; 11:09 am]

BILLING CODE 6735-01-M

DEPARTMENT OF JUSTICE

UNITED STATES PAROLE COMMISSION

Record of Vote of Meeting Closure

(Public Law 94-409) (5 U.S.C. Sec. 552b)

I, Carol Pavilack Getty, Chairman of the United States Parole Commission, presided at a meeting of said Commission which started at nine o'clock a.m. on Tuesday, December 3, 1991 at the Commission's Central Office, 5550 Friendship Boulevard, Chevy Chase, Maryland, 20815. The meeting ended at or about 11:30 a.m. The purpose of the meeting was to decide approximately 9 appeals from National Commissioners' decisions pursuant to 28 C.F.R. Sec. 2.27. Four Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcements further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Carol Pavilack Getty, Jasper Clay, Jr., Vincent Fechtel, Jr., and Victor M.F. Reyes.

IN WITNESS THEREOF, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: December 3, 1991.

Carol Pavilack Getty,

Chairman, U.S. Parole Commission.

[FR Doc. 91-29780 Filed 12-9-91; 2:57 pm]

BILLING CODE 4410-01-M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meeting

TIME AND DATE: 9:30 a.m., Monday, December 16, 1991.

PLACE: Filene Board Room, 7th Floor, 1776 G Street, NW., Washington, DC 20456.

STATUS: Open.

BOARD BRIEFINGS:

1. Economic Commentary.
2. Central Liquidity Facility Report and Review of CLF Lending Rate.
3. Insurance Fund Report.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. College Student Credit Union Chartering Policy.
3. Final Rule: Section 705.7, NCUA's Rules and Regulations, Community Development Revolving Loan Program for Credit Unions—Loan Interest Rate.
4. Community Development Revolving Loan Program for Credit Unions—Notice Regarding Applications for Participation.
5. Proposed Fiscal Year Date Change for NCUA and NCUSIF.

RECESS: 10:45 a.m.

TIME AND DATE: 11:00 a.m., Monday, December 16, 1991.

PLACE: Filene Board Room, 7th Floor, 1776 G Street, NW., Washington, DC 20456.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meetings.
2. Administrative Action under Sections 206, and 307 of the FCU Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).

3. Administrative Actions under Sections 206, 208, and 307 of the FCU Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).

4. Administrative Action under Sections 207 and 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).

5. Administrative Actions under Section 206 of the FCU Act. Closed pursuant to exemptions (7), (8), (9)(A)(ii) and (9)(B).

6. Supplemental CLF Agent Reimbursement Fee. Closed pursuant to exemptions (9)(A)(ii) and (9)(B).

7. Appeal of Denial of Insurance. Closed pursuant to exemptions (6), (8), and (9)(B).

8. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682–9600.

Becky Baker,

Secretary of the Board.

[FR Doc. 91–29656 Filed 12–6–91; 4:49 pm]

BILLING CODE 7535–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of December 9, 16, 23, and 30, 1991.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of December 9

Thursday, December 12

10:00 a.m.
Periodic Briefing on EEO Program (Public Meeting)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

1:30 p.m.
Periodic Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)

Week of December 16—Tentative

Monday, December 16

2:00 p.m.
Briefing on Regulatory Application of PRA (Public Meeting)

Tuesday, December 17

10:00 a.m.
Briefing by DOE on Status of Civilian High Level Waste Program (Public Meeting)

Thursday, December 9

10:00 a.m.
Periodic Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

2:00 p.m.
Briefing on Status of Technical Specifications Improvement Program (Public Meeting)

Week of December 23—Tentative

There are no Commission meetings scheduled for the Week of December 23.

Week of December 30—Tentative

There are no Commission meetings scheduled for the Week of December 30.

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To verify the Status of Meeting Call (Recording)—(301) 492–0292

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

Dated: December 6, 1991.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 91–29730 Filed 12–9–11:37 am]

BILLING CODE 7590–01–M

U.S. RAILROAD RETIREMENT BOARD

Notice of Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on December 17, 1991, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

(1) Backlog Reductions (Task Force Report/Administrative Finality).

(2) Automation of Procedure Manuals.

(3) Policy Change Proposal for Issuance of Corrected Income Tax Statements.

(4) Fiscal Year 1992 Budget Allocations.

(5) First Floor Building Renovations/RRB Space Needs.

(6) Legislation on RRB Priority in Bankruptcy.

(7) Occupational Disability/Policy of Considering Applications of Employed Applicants.

(8) RRB Medicare Contract.

(9) Board Order 75–2.

(10) Recertification of SES.

(11) Regulations—Parts 202 and 301, Employers Under the Railroad Retirement Act and Railroad Unemployment Insurance Act.

(12) Regulations—Part 203, Employees Under the Act.

(13) Regulations—Part 230, Reduction and Non-Payment of Annuities by Reason of Work.

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, COM No. 312–751–4920, FTS No. 386–4920.

Dated: December 6, 1991.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 91–29693 Filed 12–9–91; 11:08 am]

BILLING CODE 7905–01–M

Corrections

Federal Register
Vol. 56, No. 238
Wednesday, December 11, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

FEDERAL RESERVE SYSTEM

Central Illinois Financial Corporation, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

Correction

In notice document 91-12868 appearing on page 24819 in the issue of Friday, May 31, 1991, in the third column, in the file line at the end of the document, "FR Doc. 91-12867" should read "FR Doc. 91-12868".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Center for Drug Evaluation and Research

Correction

In rule document 91-25896 appearing on page 55454 in the issue of Monday, October 28, 1991, make the following correction:

On the same page, in second column, in the authority citation, in the second line, "1395h" should read "1395y".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-943-4214-;IDI-833]

Notice of Proposed Continuation of Withdrawal, Idaho

Correction

In notice document 91-25135 beginning on page 52280 in the issue of Friday, October 18, 1991, make the following correction:

On the same page, in the third column, in the land description, under *Sheephorn Lookout Administrative Site*, in the third line, "SW¼SE¼SW¼" should read "SW¼SW¼SE¼SW¼".

BILLING CODE 1505-01-D

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-327]

Certain Food Trays With Lockable Lids; Notice of Investigation

Correction

In notice document 91-10258 beginning on page 20022 in the issue of Wednesday, May 1, 1991, make the following correction:

On page 20023, in the first column, in the file line at the end of document, "FR Doc. 91-10528" should read "FR Doc. 91-10258"

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Annual List of Labor Surplus Areas

Correction

In notice document 91-25757 beginning on page 55339 in the issue of Friday, October 25, 1991, make the following corrections:

1. On page 55341, in the 3rd column, in the 'Civil jurisdictions included' section, in the 25th line from the bottom, after "Tulare County less Porterville City, Tulare City," insert " Visalia City."

2. On page 55342, in the third column, in the tenth line under **ILLINOIS**, "Carpentersville County" should read "Carpentersville City".

3. On page 55343, in the first column, in the 'Eligible labor surplus areas' section, in the seventh line from the bottom, "Rockford County" should read "Rockford City".

4. On page 55346, in the first column, in the 'Eligible labor surplus areas' section, in the last line under **MONTANA**, add "Wheatland County".

5. On page 55348, in the 3rd column, in the 'Eligible labor surplus areas' section, in the 23rd line, "Pharr City County" should read "Pharr City".

BILLING CODE 1505-01-D

federal register

Wednesday
December 11, 1991

Part II

Department of Health and Human Services

Administration for Children and Families

Administration for Native Americans: Availability of Financial Assistance; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. 93612-922]

Administration for Native Americans: Availability of Financial Assistance

AGENCY: Administration for Native Americans (ANA), Administration for Children and Families, (ACF), DHHS.

ACTION: Announcement of availability of competitive financial assistance for Alaskan Native social and economic development projects.

SUMMARY: The Administration for Native Americans (ANA) announces the anticipated availability of fiscal year 1992 funds for social and economic development projects. Financial assistance provided by ANA is designed to strengthen the self-sufficiency of Alaskan Natives through support of social and economic development strategies (SEDS) and the strengthening of local governance capabilities.

DATES: The closing dates for submission of applications are February 7, 1992 and May 15, 1992.

FOR FURTHER INFORMATION CONTACT: Robert Kreidler (206) 553–8113 Department of Health and Human Services, Administration for Children and Families, Administration for Native Americans, 2201 6th Avenue, Mail Stop Rx–34, Seattle, Washington 98121.

SUPPLEMENTARY INFORMATION:

A. Introduction and Purpose

The purpose of this program announcement is to announce the anticipated availability of fiscal year 1992 financial assistance to promote social and economic self-sufficiency for Alaskan Natives through support of local governance and social and economic development projects. Funds will be awarded under section 803(a) of the Native American Programs Act of 1974, as amended, Public Law 93–644, 88 Stat. 2324, 42 U.S.C. 2991b. Proposed projects will be reviewed on a competitive basis against the evaluation criteria in this announcement.

The Administration for Native Americans believes that responsibility for achieving self-sufficiency rests with the governing bodies of Indian Tribes, Alaskan Native villages, and in the leadership of Native American groups. The development of self-sufficiency requires the strengthening of governmental responsibilities, economic progress, and improvement of social systems which protect and enhance the health and well-being of individuals, families and communities. Achievement of self-sufficiency is based on the community's ability to develop a strategy and to plan, organize, and direct resources in a comprehensive manner to achieve the community's long-range goals.

The Administration for Native Americans bases its program and policy on three goals:

(1) *Governance:* To assist tribal and village governments, Native American institutions, and local leadership to exercise local control and decision-making over their resources.

(2) *Economic Development:* To foster the development of stable, diversified local economies and economic activities which will provide jobs, promote economic well-being, and reduce dependency on public funds and social services.

(3) *Social Development:* To support local access to, control of, and coordination of services and programs which safeguard the health and well-being of people, and which are essential to a thriving and self-sufficient community.

To achieve these goals, ANA supports tribal and village governments, and other Native American organizations to develop and implement community-based, long-term governance, and social and economic development strategies (SEDS). These strategies promote the self-sufficiency of local communities. The ANA approach is based on two fundamental principles:

(1) The local community and its leadership are responsible for determining goals, setting priorities, and planning and implementing programs aimed at achieving those goals. The unique mix of socio-economic, political, and cultural factors in each community makes such self-determination necessary. The local community is in the best position to apply its own cultural, political, and socio-economic values for its long-term strategies and programs.

(2) Economic and social development are interrelated, and development in one area should be balanced with development in the other in order to move toward self-sufficiency. Consequently, comprehensive development strategies address all aspects of the infrastructures needed to become self-sufficient communities.

- "Governmental infrastructure" includes the constitutional, legal, and administrative development requisite for independent governance.
- "Economic infrastructure" includes the physical, commercial, industrial and/or agricultural components necessary for a functioning local economy which supports the life-style embraced by the Native American community.
- "Social infrastructure" includes those components through which health and well-being are maintained within the community.

Without a careful balance of all of these, a community's development efforts could be jeopardized. For example, expansion of social services, without providing opportunities for employment and economic development, could lead to greater dependency on social services. Conversely, inadequate social services could seriously impede productivity and local economic development.

B. Proposed Projects to be Funded

The fundamental task which Native American communities face is to develop enduring social and economic strategies in keeping with their local goals, resources, and cultural values. The Administration for Native Americans assists local communities to undertake projects that are a part of long-range strategies to achieve social and economic self-sufficiency. The Administration for Native Americans expects its applicants to have undertaken a long-range planning process to address the community's development. Such long-range planning must consider the maximum use of all available resources, directing those resources to opportunities, and addressing local issues that hinder social and economic growth in the community. The Administration for Native Americans encourages applicants to design projects to achieve their specific governance, and social and economic goals, that use available human, natural, financial, and physical resources to which the applicant has access. Non-ANA resources should be marshalled to strengthen and broaden the proposed project impact in the community. Project designs should explain the means through which those parts of projects which ANA does not fund, such as construction, will be financed through other sources.

All projects funded by ANA must be completed, or self-sustaining or supported with other than ANA funds, at the end of the project period. "Completed" means that the project ANA funded is finished, and the desired result(s) have been attained. "Self-sustaining" means that a project will continue without outside resources. "Supported by other than ANA funds" means that the project will continue beyond the ANA project period, but supported by funds other than ANA's.

The Administration for Native Americans does not fund programs which operate indefinitely that would have a need for ANA funding on a recurring basis.

The Administration for Native Americans does not normally fund objectives or activities for the core administration of an organization. However, ANA will consider funding core administrative capacity building projects at the village government level if the villages do not have governing systems in place. "Core administration" is defined as those functions which provide the ongoing management and administrative support to an organization. The management and administrative functions needed to carry out an ANA approved project are not considered core administration. However, ANA does fund the salaries of approved staff for the time to implement a funded ANA project. The Administration for Native Americans does not provide funds for staff salaries for those functions which support the organization as a whole, or for purposes unrelated to the actual management or implementation of work conducted under an ANA approved project.

Goal 1: Governance

Effective governance is a necessary foundation and condition for social and economic development of Indian tribes, Alaskan Native villages, and Native American groups. Efforts to achieve effective governance include: (1) Strengthening the infrastructures of tribal and village governments; (2) increasing the ability of tribes, villages, and Native American groups and organizations to plan, develop, and administer a comprehensive program to support community social and economic self-sufficiency; and (3) increasing awareness of the legal rights and benefits to which Native Americans are entitled, either by virtue of treaties, the Federal trust relationship, legislative authority, or as citizens of a particular state, or of the United States. Under its governance goal, ANA strongly encourages tribal and village councils, and other governing bodies, to strengthen and streamline their institutional management. The purpose is to develop and implement effective social and economic development strategies, and to improve their day-to-day governmental management. By improving such capabilities, Indian Tribes, Alaskan Native villages, and Native American groups can better define and achieve their goals, promote greater efficiency, and the effective use of all available resources.

Goal 2: Economic Development

Is the long-term mobilization and management of economic resources to achieve a diversified economy. It is characterized by the effective and planned distribution of economic resources, services, and benefits. It also includes the participation of community members in the productive activities and economic investments of the community, and the pursuit of economic interests through methods that balance economic gain with social development, supported by an adequate governmental infrastructure.

Goal 3: Social Development

Is the mobilization and management of resources for the social benefit of community members. It involves the establishment of institutions, systems, and practices that contribute to the social environment desired by the community. This includes the development of, access to, and local control over, the projects and institutions that protect the health and welfare of individuals and families, and preserve the values, language, and culture of the community. Building on the foundation of strong local governance, ANA supports tribal and village governments' and other Native American organizations' plans to achieve coordinated and balanced development through the implementation of social and economic development strategies (SEDS). These interrelated strategies should describe how the community coordinates and directs all resources (Federal and non-Federal) toward locally determined priorities, and how the community and its members are assisted in ways that promote greater economic and social self-sufficiency. In addition, strategies that combine balanced social and economic and governance goals should target independent sources of revenue for the community which will decrease dependency on public funds.

Alaska Initiative

Based on the three ANA goals, in fiscal year 1984, ANA implemented a special Alaska social and economic development initiative. The purpose of this special effort was to provide financial assistance at the village level, or for village-specific projects aimed at improving a village's social and economic development. This program announcement continues to implement this initiative. ANA sees both the nonprofit and for-profit corporations in Alaska as being able to play an important supportive role in assisting individual villages to develop and implement their own locally determined strategies which take advantage of the opportunities afforded to Alaskan Natives under the Alaska Native Claims Settlement Act (ANCSA), Public Law 92–202.

Examples of the types of projects that ANA is seeking to fund include, but are not limited to, projects that will:

Governance:

- Initiate a demonstration program at a regional level to allow Native people to become involved in developing strategies to maintain and develop their economic subsistence base.
- Assist villages in developing land use capabilities and skills in the areas of land and natural resource management, resource assessment and development, and studies of the potential impact of land use upon the environment and the subsistence ecology.
- Assist village consortia in the development of tribal constitutions, ordinances, codes, and court systems.
- Develop agreements between the State and villages that transfer programs, jurisdictions, and/or control to Native entities.
- Strengthen village government control of land management, including land protection.
- Develop tribal courts, adoption codes, and/or related comprehensive children's codes.
- Assist in status clarification.
- Initiate village level mergers between village councils, village corporations and others to coordinate programs and services which safeguard the health and well-being of a community and its people.
- Develop Regional IRAs (Indian Reorganization Act of 1934) and village consortia, in order to maximize tribal government resources, i.e., to develop model codes, tribal court systems, governance structures, and organic documents.
- Assist villages in developing and coordinating plans for the development of water and sewer systems for use within the village boundaries.
- Assist villages in establishing structures through which youth would participate in the governance of the community and be trained to assume leadership roles in village governments.

Economic Development:

- Assist villages to develop businesses and industries which (1) Use local materials, (2) create jobs for Alaskan Natives, (3) are capable of high productivity at a small scale of operation, and (4) complement

traditional and necessary seasonal activities.

• Substantially increase and strengthen efforts to establish and improve the village and regional infrastructure and the capabilities to develop and manage resources in a highly competitive cash-economy system.

• Assist villages or consortia of villages in developing subsistence compatible industries that will retain local dollars in villages.

• Assist in new or expanded native-owned businesses.

• Assist villages in labor export, i.e., people leaving the local communities for seasonal work and returning to their communities.

• Consider strategies and plans to protect against, monitor, and assist when catastrophic events occur, such as oil spills, earthquakes, etc.

Social Development:

• Assist villages in developing programs to deliver needed social services.

• Assist in developing training and education programs for those jobs in education, government, and health usually found in local communities; and to work with the various agencies to encourage job replacement of non-Natives by Natives.

• Coordinate land use planning with village corporations and city government.

• Develop local models related to comprehensive planning and delivery of social services.

• Develop new service programs established with ANA funds and funded for continued operation by local communities or the private sector.

• Develop or coordinate activities with State-funded projects, in decreasing the incidence of child abuse and neglect, fetal alcohol syndrome, or Native suicides.

• Assist in obtaining licenses to provide housing or related services from State or local governments.

• Develop businesses to provide relief for caretakers needing respite from demanding care work, child care, chore service, etc.

C. Eligible Applicants

The following are eligible to apply for a grant award under this program announcement.

• Current ANA grantees in Alaska funded under section 803(a) of the Native American Programs Act with a project period ending in Fiscal Year 1992. (October 1, 1991–September 30, 1992);

• Alaskan Native villages as defined in the Alaska Native Claims Settlement Act (ANCSA) and/or nonprofit village consortia;

• Nonprofit Alaskan Native Regional Associations in Alaska with village specific projects;

• Nonprofit Native organizations in Alaska with village specific projects; and

• Nonprofit Alaskan Native community entities or tribal governing bodies (IRA or traditional councils) as recognized by the Bureau of Indian Affairs.

Although for-profit regional corporations established under ANCSA are not eligible applicants, individual villages and Indian communities are encouraged to use the for-profit corporations as subcontractors and to collaborate with them in joint-venture projects for promoting social and economic self-sufficiency. ANA encourages the for-profit corporations to assist the villages in developing applications and to participate as subcontractors in a project.

This program announcement does not apply to current grantees with multi-year projects that apply for continuation funding for their second or third budget periods.

Note: In fiscal year 1992, Alaskan Native entities are eligible to submit an application under either Program Announcement 13612–921, published August 6, 1991, or this announcement, 13612–922, but are limited to a single application for each closing date.

An Alaska Native applicant may apply for the: February 7, 1992 closing date for Program Announcement 13612–921; OR for Program Announcement 13612–922; and the May 15, 1992 closing date for Program Announcement 13612–921 OR for Program Announcement 13612–922.

The following chart may be of assistance in understanding under what dates an Alaskan Native applicant is eligible to apply.

PROGRAM ANNOUNCEMENT

	13612-921	13612-922
Submit application to.	Washington, DC	Seattle, WA.
Closing dates	February 7, 1992	February 7, 1992.
	May 15, 1992	May 15, 1992.

D. Available Funds

Approximately $1.5 million of Federal financial assistance is available under this program announcement for Alaskan Native projects. This program announcement is being issued in anticipation of appropriation of funds, and is contingent upon that appropriation.

Funding Guidance: ANA plans to award approximately 15–18 grants under this announcement. For individual village projects, the funding level for a budget period of 12 months will be up to $100,000; for regional nonprofit and village consortia, the funding level for a budget period is up to $150,000, commensurate with approved multi-village objectives. Each eligible applicant can receive only one grant award under this announcement.

E. Multi-Year Projects

Applicants may apply for projects of up to 36 months duration. A multi-year project, that is, a project on a single theme requiring more than 12 months to complete, affords applicants the opportunity to develop more complex, and in-depth, projects than can be completed in one year. Applicants are encouraged to develop multi-year projects. However, applicants should understand that a multi-year project is a project on a single theme that requires more than 12 months to complete. The project cannot be a series of unrelated projects or activities presented in chronological order over a two or three year period. Funding after the first 12 month budget period of an approved multi-year project is non-competitive. The budget period for each multi-year project grant is 12 months. The non-competitive funding for the second and third years is contingent upon the grantee's satisfactory progress in achieving the objectives of the project, according to the approved work plan, the availability of Federal funds, and compliance with the applicable statutory, regulatory and grant requirements.

F. Grantee Share of Project

Grantees must provide at least 20 percent of the total approved cost of the project, which may be cash or in-kind contributions. The total approved cost of the project is the sum of the Federal share and the non-Federal share. The method to compute the non-Federal share is shown in the ANA Application Kit. An itemized budget detailing the applicant's non-Federal share, and its source, must be included in an application. A request for a waiver of the non-Federal share requirement may be submitted in accordance with 45 CFR 1336.50(b)(3) of the Native American Program Regulations.

G. Intergovernmental Review of Federal Programs

This program is not covered by Executive Order 12372.

H. The Application Process

Availability of Application Forms

In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and in the manner prescribed by ANA. The application kits containing the necessary forms and instructions may be obtained from: Department of Health and Human Services, Administration for Children and Families, Administration for Native Americans, 2201 6th Avenue, Mail Stop RX-34, Seattle, WA 98121, Attention: ANA 93612-922 or (206) 553-8113 or (206) 553-0992.

Application Submission

One signed original, and two copies, of the grant application, including all attachments, must be hand delivered or mailed by the closing date to: Department of Health and Human Services, Administration for Children and Families, Discretionary Grants Management Branch, 2201 6th Avenue, Mail Stop RX-31, Seattle, WA 98121, Attention: ANA 93612-922.

Note: Do not submit an application for this program announcement to Washington, DC.

The application must be signed by an individual authorized (1) to act for the applicant Tribe, village, or organization and (2) to assume the applicant's obligations under the terms and conditions of the grant award, including Native American Program statutory and regulatory requirements.

Application Consideration

The Commissioner of the Administration for Native Americans determines the final action to be taken with respect to each grant application received under this announcement.

The following points should be taken into consideration by all applicants:

- Incomplete applications and applications that do not conform to this announcement will not be accepted for review. Applicants will be notified in writing of any such determination by ANA.
- Complete applications that conform to all the requirements of this program announcement are subjected to a competitive review and evaluation process. An independent review panel evaluates each application against the published criteria in this announcement. The results of this review assist the Commissioner to make final funding decisions.
- The Commissioner's decision also takes into account the comments of ANA staff, State and Federal agencies having performance related information, and other interested parties.
- The Commissioner makes grant awards consistent with the purpose of the Act, all relevant statutory and regulatory requirements, this program announcement, and the availability of funds.
- After the Commissioner has made decisions on all applications, unsuccessful applicants are notified in writing within approximately 120 days of the closing date. Successful applicants are notified through an official Financial Assistance Award (FAA) document. The Administration for Native Americans staff cannot respond to requests for funding decisions prior to the official notification to the applicants. The FAA will state the amount of Federal funds awarded, and the amount of the non-Federal matching share requirement, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the project period, and the budget period.

I. Review Process and Criteria

Applications submitted by the post-marked date under this program announcement will undergo a pre-review to determine:

- That the applicant is eligible in accordance with the Eligible Applicants Section of this announcement.
- That the application materials submitted are sufficient to allow the panel to undertake an in-depth evaluation. (All required materials and forms are listed in the Grant Application Checklist in the Application Kit.)

Applications which pass the pre-review will be evaluated and rated by an independent review panel on the basis of five evaluation criteria. These criteria are used to evaluate the quality of a proposed project, and to determine the likelihood of its success. A proposed project should reflect the purposes of ANA's SEDS policy and program goals (described in Introduction and Program Purpose of this announcement) and the probability of self-sufficiency for a specific tribe or Native American community. The five programmatic and management criteria are closely related to each other. They are considered jointly in judging the overall quality of an application. Points will be given only to applications which are responsive to this announcement and these criteria. The five evaluation criteria are:

(1) *Long-Range Goals and Available Resources.* (15 points)

(a) The application presents specific long-range community goals related to the proposed project. It explains how the community's intent to achieve these goals has been identified and clearly documents the involvement and support of the community in the planning process and implementation of the proposed project. The goals are presented within the context of a comprehensive community social and economic development plan. (Inclusion of the community's entire development plan is not necessary.)

(b) Available resources (other than ANA) which will assist, and be coordinated with the project are described. These resources may be human, natural or financial, and may include other Federal and non-Federal resources.

(2) *Organizational Capabilities and Qualifications.* (10 points)

a. The management and administrative structure of the applicant is explained. Evidence of the applicant's ability to manage a project of the proposed scope is well defined. The application clearly shows the successful management of prior or current projects of similar scope by the organization, and/or by the individuals designated to manage the project.

b. Position descriptions or resumes of key personnel, including those of consultants, are presented. The position descriptions and resumes relate specifically to the staff proposed in the Approach Page and in the proposed Budget of the application. Position descriptions very clearly describe the position and its duties and clearly relate to the personnel staffing required for implementation of the project. Resumes indicate that the proposed staff are qualified to carry out the project activities. Either the position descriptions or the resumes set forth the qualifications that the applicant believes are necessary for overall quality management of the project.

(3) *Project Objectives, Approach and Activities.* (45 points)

The application proposes specific project objectives and activities related to the overall long-term goals. The Objective Work Plan in the application includes project objectives and activities for *each* budget period proposed and demonstrates that these objectives and activities:

- Are measurable and/or quantifiable;
- are based on a fully described and locally determined balanced strategy for

governance or social and economic development;

• clearly relate to the community's long-range goals which the project addresses;

• can be accomplished with available or expected resources during the proposed project period;

• indicate when the objective, and major activities under each objective, will be accomplished;

• specify who will conduct the activities under each objective; and

• support a project that will be completed, self-sustaining, or financed by other than ANA funds at the end of the project period.

(4) *Results or Benefits Expected.* (20 points) The proposed project will result in specific, measurable outcomes for each objective that will clearly contribute to the completion of the project and will help the community meet its goals. The specific information provided in the application on expected results or benefits for each objective is the basis upon which the outcomes can be evaluated at the end of each budget year.

(5) *Budget.* (10 points) There is a detailed budget provided for each budget period requested. (This is especially necessary for multi-year applications.) The budget is fully explained. It justifies each line item in the budget categories in Section B of the Budget Information of the application, including the applicant's non-Federal share and its source. Sufficient cost and other detail is included and explained to facilitate the determination of cost allowability and the relevance of these costs to be proposed project. The funds requested are appropriate and necessary for the scope of the project. For business development projects, the proposal demonstrates that the expected return on the funds used to develop the project provides a reasonable profit within a future specified time frame.

J. Guidance to Applicants

The following is provided to assist applicants to develop a competitive application:

(1) *Program Guidance*

• The Administration for Native Americans funds projects that present the strongest prospects for fulfilling a community's governance, social or economic development. The Administration for Native Americans does not fund on the basis of need alone.

• In discussing the problems being addressed in the application, sufficient background and/or history of the community concerning these problems, and progress to date, as well as the size of the population to be served, should be included so that the appropriateness and potential of the proposed project in strengthening the self-sufficiency of a community will be better understood by reviewers.

• Community Coordination: ANA supports the concept that the key to balanced socio-economic development is the local village. ANA encourages native village governments to coordinate their local plans with other village entities, if any, and especially the city government and the village corporation. In addition, villages are encouraged to make maximum use of regional nonprofit resources, including village-to-regional corporation subcontracts.

• An application should demonstrate a clear linkage between the proposed project and the community's long-range goals or plan.

• The project application must clearly identify in measurable terms the expected results, benefits or outcomes of the project, and the positive or continuing impact on the community the project will have.

• Supporting documentation or other testimonies from concerned interests other than the applicant should be included to provide support for the feasibility and commitments of resources to the implementation or conduct of the project.

• In the ANA Project Narrative, Section A of the application package, Resources Available to the Proposed Project, the applicant should describe any specific financial circumstances which may impact on the project, such as any monetary or land settlements made to the applicant, and any restrictions on the use of those settlements. When the applicant appears to have other resources to support the proposed project and chooses not to use them, the applicant should explain why it is seeking ANA funds and not utilizing these resources for the project.

• Reviewers of applications for ANA indicate they are better able to evaluate the feasibility and practicality of a proposed economic development project if the applicant includes a business plan to support the feasibility of the project. (ANA has included sample business plans in the application kit.) It is strongly recommended that an applicant use these as a guide in the development of an application. The more information provided a review panel, the better able the panel is to evaluate the potential for the success of the proposed project.

• A "multi-purpose community-based Native American organization" is an association and/or corporation whose charter specifies that the community designates the Board of Directors and/or officers of the organization through an elective procedure and that the organization functions in several differing areas of concern to the members of the local Native American community. These areas are specified in the by-laws and/or policies adopted by the organization. They may include, but need not be limited to, economic, artistic, cultural, and recreational activities, the delivery of human services such as health, day care, counseling, education, and training.

(2) *Technical Guidance*

• It is strongly suggested that the applicant follow the Supplemental Guide included in the ANA application kit to develop an application. The Guide provides practical information and helpful suggestions, and is an aid to help applicants prepare ANA applications for social and economic development projects.

• Applicants are encouraged to have someone other than the author apply the evaluation criteria in the program announcement and to score the application prior to its submission, in order to gain a better sense of the application's quality and potential competitiveness in the ANA review process.

• For purposes of developing an application, applicants should plan for a project start date approximately 120 days after the closing date under which the application is submitted.

• The Administration for Native Americans will not fund essentially identical projects serving the same constituency.

• The Administration for Native Americans will accept only one application for each closing date. If an eligible applicant sends in two applications, the one with the earlier postmark will be accepted for review unless the applicant withdraws the earlier application.

• An application from an Indian tribe or other applicant must be from the governing body of the applicant.

• The application's Form 424 must be signed by the applicant's representative authorized to act with full authority on behalf of the applicant.

• The Administration for Native Americans suggests that the pages of the application be numbered sequentially from the first page, and that a table of contents be provided. This allows for easy reference during the review process. Simple tabbing of the sections of the application is also helpful to the reviewers.

• Two copies of the application plus the original are required.

• The Cover Page (included in the Kit) should be the first page of an application, followed by the one-page abstract.

• The Approach page (Section B of the ANA Program Narrative) for each objective proposed should be of sufficient detail to become a monthly staff guide of responsibilities should the applicant be funded.

• The applicant should specify the entire project period length on the first page of the Form 424, Block 13, not the length of the first budget period. Should the application's contents propose one length of project period and the Form 424 specify a conflicting length of project period, ANA will consider the project period specified on the Form 424 as governing.

• Line 15a of the 424 should specify the Federal funds requested for the first Budget Period, not the entire project period.

• If a profit-making venture is being proposed, profits must be reinvested in the business in order to decrease or eliminate ANA's future participation. Such revenue must be reported as general program income. A decision will be made at the time of grant award regarding appropriate use of program income. (See 45 CFR part 74 and part 92.)

• Applicants proposing multi-year projects must fully describe annual project objectives and activities. Separate Objective Work Plans (OWP) must be presented for each project year and a separate itemized budget of the Federal and non-Federal costs of the project for each budget period must be included.

• Applicants for multi-year projects must justify the entire time frame of the project (i.e., why the project needs funding for more than one year) and describe the results to be achieved by the end of each budget period of the total project period.

• Village governments or other applicants without established accounting systems must arrange for qualified, acceptable accounting services prior to release of grant funds.

Note: Subpart H, 45 CFR part 74 and subpart C, 45 CFR part 92 address those elements of a generally acceptable accounting system for Federal grantees. The financial management standards in subparts H and C, for example, include:

(1) Accurate, current and complete disclosure;

(2) Records which show source and application of funds;

(3) Effective control and accountability of funds and property;

(4) Comparison of actual and budgeted amounts;

(5) Procedures to minimize time lapsing between transfer and disbursement of funds;

(6) Procedures to determine allowability and allocation of funds;

(7) Accounting records with source documentation;

(8) Periodic audits; and

(9) A follow-up system.

(3) *Projects or activities that generally will not meet the purposes of this announcement.*

• Projects in which a grantee would provide training and/or technical assistance (T/TA) to other tribes or Native American organizations ("third party T/TA"). However, the purchase of T/TA by a grantee for its own use or for its members' use (as in the case of a consortium), where T/TA is necessary to carry out project objectives, is acceptable.

• Projects that include feasibility studies, business plans, marketing plans or written materials, such as manuals, that are not an essential part of the applicant's long-range development plan. The Administration for Native Americans is not interested in funding "wish lists" of business possibilities. The Administration for Native Americans expects evidence of solid investment of time and thought on the part of the applicant to any development of business plans, etc., prior to the submission of the application.

• The support of on-going social service delivery programs or the expansion, or continuation, of existing social service delivery programs.

• Core administration functions, or other activities, that essentially support only the applicant's on-going administrative functions.

• Project goals which are not responsive to one or more of the three ANA goals (Governance, Economic Development, Social Development).

• Proposals from consortia of tribes and villages that are not specific with regard to support from, and roles of, member tribes and villages.

The Administration for Native Americans expects an application from a consortium to have goals and objectives that will create a positive impact in the communities of its members.

• Projects which should be supported by other Federal funding sources that are appropriate, and available, for the proposed activity.

• Projects that will not be completed, self-sustaining, or supported by other than ANA funds, at the end of the project period.

• The purchase of real estate (see 45 CFR 1336.50 (e)) or construction (see HDS Grants Administration Manual Ch. 3, section E.)

• Projects originated and designed by consultants who are not members of the applicant organization, tribe or village who prepared the application and provide a major role for themselves in the proposed project.

The Administration for Native Americans will critically evaluate applications with which the acquisition of major capital equipment (whether oil rigs or computers/word processing equipment) is a major component of the Federal share of the budget. During negotiation, such expenditures may be deleted from the budget of an otherwise approved application, if not fully justified by the applicant and not deemed appropriate to the needs of the project by ANA.

K. Paperwork Reduction Act of 1980

Under the Paperwork Reduction Act of 1980, Public Law 96–511, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and recordkeeping requirements in regulations including program announcements. This program announcement does not contain information collection requirements beyond those approved for ANA grant applications under the Program Narrative Statement by OMB.

L. Due Date for Receipt of Applications

The closing dates for applications submitted in response to this program announcement are February 7, 1992 and May 15, 1992.

M. Receipt of Applications

Applications must either be hand delivered or mailed to the address in section H, The Application Process: Application Submission.

The Administration for Native Americans will not accept applications submitted via facsimile (FAX) equipment. *Deadlines.* Appications mailed through the U.S. Postal Service or a commercial delivery service shall be considered as meeting an announced closing date if they are either:

(1) Received on or before the deadline date at the address specified in section H, Application Submission, or

(2) sent on, or before, the deadline date and received in time for the ANA independent review under Chapter 1–62 of the HHS Grants Administration Manual. Applicants are cautioned to request a legibly dated receipt from a commercial carrier or U.S. Postal Service or a legible postmark date from the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

Late applications. Applications which do not meet the criteria in the above paragraph of this section are considered late applications and will be returned to the applicant. The Administration for Native Americans shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines. The Administration for Native Americans may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is a widespread disruption of the mails. However, if ANA does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant.

(Catalog of Federal Domestic Assistance Program Number 93.612 Native American Programs)

Dated: October 29, 1991.

S. Timothy Wapato,

Commissioner, Administration for Native Americans.

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federal register

Wednesday
December 11, 1991

Part III

The President

Proclamation 6390—Human Rights Day, Bill of Rights Day, and Human Rights Week, 1991

Federal Register
Vol. 56, No. 238
Wednesday, December 11, 1991

Presidential Documents

Title 3—

The President

Proclamation 6390 of December 9, 1991

Human Rights Day, Bill of Rights Day, and Human Rights Week, 1991

By the President of the United States of America

A Proclamation

When the Federal Convention ended in September 1787 and our Constitution was presented to the States for ratification, it was hailed by many as a triumph for liberty and self-government. "The Constitution," wrote Thomas Jefferson, "is unquestionably the wisest ever yet presented to men." Still, he and others voiced concern that it did not contain a declaration enumerating the rights of individuals. To Jefferson such a declaration was "what no just government should refuse or rest on inferences."

Opponents to the idea argued that a bill of rights would be unnecessary and perhaps even harmful, should it invite disregard for any rights that were not expressly stated. In their view, the Constitution that began with the words "We the People" clearly affirmed the sovereignty of the American public. But Jefferson and others persisted, noting that a declaration of rights would serve "as a supplement to the Constitution where that is silent." James Madison conceded that such a declaration might prove valuable because "political truths declared in that solemn manner acquire by degrees the character of fundamental maxims of free government." Today his words seem prophetic.

Our Bill of Rights guarantees, among other basic liberties, freedom of speech and of the press, as well as freedom of religion and association; it recognizes the right to keep and bear arms; and it prohibits unreasonable search and seizure of a person's home, papers, or possessions. The Bill of Rights also states that no person shall be deprived of life, liberty, or property without due process of law and establishes fundamental rules of fairness in judicial proceedings, including the right to trial by jury. Since it was ratified on December 15, 1791, the principles enshrined in this great document have not only served as the guiding tenets of American government but also inspired the advance of freedom around the globe.

When it adopted the Universal Declaration of Human Rights on December 10, 1948, the General Assembly of the United Nations affirmed for all humankind the ideals enshrined in our Bill of Rights. Noting that "human rights should be protected by the rule of law," and describing the Declaration as "a common standard of achievement for all peoples and all nations," signatories agreed to respect freedom of thought, freedom of conscience, as well as freedom of religion and belief. They declared that "everyone has the right to life, liberty, and the security of person," and they recognized that all human beings are entitled to equal protection of the law. Signatories to the Declaration also recognized an individual's right to participate in the government of his or her country, either directly or through freely chosen representatives.

The Universal Declaration of Human Rights reasserted what we Americans have always believed: that recognition of these rights "is the foundation of freedom, justice, and peace in the world." This ideal was reaffirmed and strengthened in the 1975 Helsinki Final Act of the Conference on Security and Cooperation in Europe and more recently in the 1990 Charter of Paris.

Today we stand closer than ever to achieving universal compliance with the letter and spirit of international human rights agreements. Two hundred years after the ratification of our Bill of Rights, the principles it enshrines continue to take root around the world.

Having triumphed over communism, many peoples and nations now confront the challenge of improving respect for human rights among various ethnic and religious groups, as well as members of national minorities. The United States will continue to urge these and all nations to abide by international human rights agreements and to act in the spirit of political pluralism and tolerance—traditions that have made America's diversity a source of pride and strength.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 10, 1991, as Human Rights Day and December 15, 1991, as Bill of Rights Day and call upon all Americans to observe the week beginning December 10, 1991, as Human Rights Week.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of December, in the year of our Lord nineteen hundred and ninety-one, and of the Independence of the United States of America the two hundred and sixteenth.

George Bush

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(Dec. 5, 1991; 105 Stat. 1589; 3 pages) Price: $1.00

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H.R. 3919/Pub. L. 102-193

To temporarily extend the Defense Production Act of 1950. (Dec. 6, 1991; 105 Stat. 1593; 1 page) Price: $1.00

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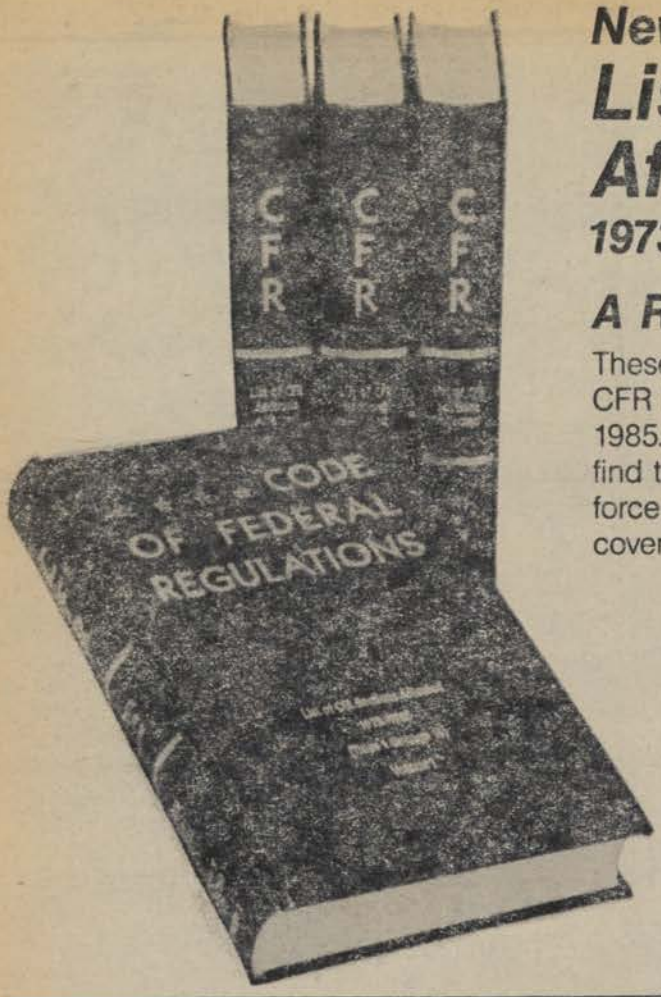

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